tain public works, and for other purposes, a special order of business; to the Committee on Rules.

By Mr. O'NEAL of Kentucky: Joint resolution (H. J. Res. 683) to provide for an additional tax on whisky; to the Committee on Ways and Means.

By Mr. DREW of Pennsylvania: Joint resolution (H. J. Res. 684) to create a joint congressional committee to receive, consider, and prepare proposals for a national highway from Jersey City, N. J., to the city of Washington, D. C., and to make reports and recommendations thereon to the Congress; to the Committee on Rules.

By Mr. HAMILTON: Joint resolution (H. J. Res. 685) to provide for temporary operation by the United States of certain steamships, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. CELLER: Joint resolution (H. J. Res. 686) to create a temporary National Economic Committee; to the Committee on the Judiciary.

By Mr. FISH: Concurrent resolution (H. Con. Res. 50) requesting that the Secretary of State urge the British Government to increase Jewish immigration to Palestine; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DOWELL: A bill (H. R. 10626) granting an increase of pension to Nancy J. Halterman; to the Committee on Invalid Pensions.

By Mr. GILDEA: A bill (H. R. 10627) for the relief of Mike Kotis; to the Committee on Immigration and Naturalization.

By Mr. HART: A bill (H. R. 10628) for the relief of James Havey; to the Committee on Claims.

By Mr. RYAN: A bill (H. R. 10629) for the relief of the village of Gaylord, Minn.; to the Committee on Claims.

By Mr. WEARIN: A bill (H. R. 10630) for the relief of J. Milton Sweney; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

5105. By Mr. CURLEY: Petition of United Federal Workers of America, urging one-step increases for custodial employees of the Post Office Department; to the Committee on the Post Office and Post Roads.

5106. Also, petition of United Cannery Agricultural Packing and Allied Workers of America, urging enactment of House bill 9745; to the Committee on the Judiciary.

5107. Also, petition of United Federal Workers of America, urging enactment of House bill 8428, known as the Civil Service Appeal Act; to the Committee on the Civil Service.

5108. Also, petition of Interstate Conference of Unemployment Compensation Agencies, Washington, D. C., urging that the United States Employment Service be transferred to the United States Social Security Board; to the Committee on Labor.

5109. By Mr. FISH: Petition signed by Maurice R. Dey and 20 other residents of Orange County, N. Y., requesting continuance of the Federal art project under the Works Progress Administration; to the Committee on Appropriations.

5110. By Mr. LUTHER A. JOHNSON: Memorial of Mrs. C. C. Pitts, State president, Ladies' Auxiliary to T. R. L. C. A., of Texas, favoring legislation liberalizing retirement to civil-service employees, including widows; to the Committee on the Civil Service.

5111. By Mr. KEOGH: Petition of New York City Federation of Women's Clubs, Inc., concerning House bill 9909, wool-labeling bill; to the Committee on Interstate and Foreign Commerce.

5112. By Mr. SHAFER of Michigan: Resolution of the Michigan Construction Federation, relating to the employment of labor by the Government or any political subdivision thereof; to the Committee on Labor.

5113. By the SPEAKER: Petition of Kings County Consolidated Civic League, Brooklyn, N. Y., petitioning consideration of their resolution No. 91, with reference to the Home Owners' Loan Corporation; to the Committee on Banking and Currency.

SENATE

FRIDAY, MAY 13, 1938

(Legislative day of Wednesday, April 20, 1938)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Thursday, May 12, 1938, was dispensed with, and the Journal was approved.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries, who also announced that the President had approved and signed the following acts and joint resolution:

On April 29, 1938:

S. 1279. An act to authorize the sale, under the provisions of the act of March 12, 1926 (44 Stat. 203), of surplus War Department real property; and

S. 1882. An act for the relief of the Consolidated Aircraft Corporation.

On May 9, 1938:

S. 477. An act to prevent fraud, deception, or other improper practice in connection with business before the United States Patent Office, and for other purposes;

S. 3351. An act to permit the issuance of certain certificates under the shipping laws by inspectors of hulls, inspectors of boilers, and designated assistant inspectors;

S. 3459. An act to authorize the Secretary of War to acquire by donation land at or near Fort Missoula, Mont., for target range, military, or other public purposes; and

S. J. Res. 256. Joint resolution to amend the joint resolution entitled "Joint resolution making funds available for the control of incipient or emergency outbreaks of insect pests or plant diseases, including grasshoppers, Mormon crickets, and chinch bugs," approved April 6, 1937.

On May 11, 1938:

S. 2307. An act to provide for the conservation of the fishery resources of the Columbia River, establishment, operation, and maintenance of one or more stations in Oregon, Washington, and Idaho, and for the conduct of necessary investigations, surveys, stream improvements, and stocking operations for these purposes;

S. 2986. An act to amend section 6 of the act approved May 27, 1936 (49 U. S. Stat. L. 1380);

S. 2221. An act to facilitate the control of soil erosion and flood damage originating upon lands within the exterior boundaries of the Cache National Forest in the State of Utah; and

S. 2689. An act to regulate the leasing of certain Indian lands for mining purposes.

On May 12, 1938:

S. 1998. An act to amend the act entitled "An act to provide for the collection and publication of statistics of peanuts by the Department of Agriculture," approved June 24, 1936.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Calloway, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 10216) making

appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1939, and for other purposes, and that the House had receded from its disagreement to the amendments of the Senate Nos. 4 and 5 to the said bill, and concurred therein.

The message also announced that the House had passed a joint resolution (H. J. Res. 679) making appropriations for work relief, relief, and otherwise to increase employment by providing loans and grants for public-works projects, in which it requested the concurrence of the Senate.

CALL OF THE ROLL

Mr. WALSH. Mr. President, I desire to be recognized after a quorum call so that I may submit a conference report.

The VICE PRESIDENT. The Senator from Massachusetts will then be recognized.

Mr. LEWIS. I suggest the absence of a quorum and ask to have the roll called.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Connally	Johnson, Calif.	Overton
Andrews	Dieterich	Johnson, Colo.	Pittman
Ashurst	Donahey	King	Pope
Austin	Duffy	La Follette	Reynolds
Bailey	Ellender	Lewis	Russell
Bankhead	Frazier	Logan	Schwartz
Barkley	George	Lonergan	Sheppard
Bilbo	Gerry	Lundeen	Shipstead
Bone	Gibson	McAdoo	Smathers
Borah	Gillette	McCarran	Thomas, Okla.
Bridges	Glass	McGill	Thomas, Utah
Brown, Mich.	Green	McKellar	Townsend
Bulkley	Hale	McNary	Truman
Bulow	Harrison	Miller	Tydings
Burke	Hatch	Milton	Vandenberg
Byrd	Hayden	Minton	Van Nuys
Byrnes	Herring	Murray	Wagner
Capper	Hill	Neely	Walsh
Caraway	Hitchcock	Norris	Wheeler
Chavez	Holt	O'Mahoney	White

Mr. LEWIS. I announce that the Senator from Delaware [Mr. HUGHES], the Senator from Oregon [Mr. REAMES], and the Senator from Washington [Mr. SCHWELLENBACH] are detained from the Senate because of illness.

The Senator from Oklahoma [Mr. LEE] is absent because of illness in his family.

The Senator from Tennessee [Mr. BERRY], the Senator from New Hampshire [Mr. BROWN], the Senator from Missouri [Mr. CLARK], the Senator from New York [Mr. COPELAND], the Senator from Pennsylvania [Mr. GUFFEY], the Senator from Connecticut [Mr. MALONEY], the Senator from Florida [Mr. PEPPER], the Senator from Maryland [Mr. RADCLIFFE], and the Senator from South Carolina [Mr. SMITH] are detained on important public business.

I ask that this announcement may stand in the RECORD for the day.

Mr. AUSTIN. I announce that the Senator from Pennsylvania [Mr. DAVIS] and the Senator from North Dakota [Mr. NYE] are necessarily absent from the Senate.

The VICE PRESIDENT. Eighty Senators have answered to their names. A quorum is present.

PETITION

The VICE PRESIDENT laid before the Senate a resolution adopted by the Texas Angora Goat Raisers' Association, of Camp Wood, Tex., favoring the enactment of legislation to extend for 20 years Federal land-bank loans, which was referred to the Committee on Banking and Currency.

REPORTS OF COMMITTEES

Mr. REYNOLDS, from the Committee on Military Affairs, to which was referred the bill (S. 3489) authorizing the appointment of John Sneed Adams as a second lieutenant in the Army, reported it without amendment and submitted a report (No. 1792) thereon.

Mr. SHEPPARD, from the Committee on Military Affairs, to which was referred the bill (S. 3747) to amend an act entitled "An act to authorize the Secretary of War to grant easements in and upon public military reservations and other lands under his control," approved May 17, 1926, reported it without amendment and submitted a report (No. 1793) thereon.

Mr. BARKLEY, from the Committee on Interstate Commerce, to which was referred the bill (S. 252) to exempt publicly owned interstate highway bridges from local taxation, reported it without amendment.

Mr. ASHURST, from the Committee on the Judiciary, to which was referred the bill (S. 2927) to regulate the times and places of holding court in Oklahoma, reported it with amendments.

REST-ROOM ATTENDANT

Mr. BYRNES. From the Committee to Audit and Control the Contingent Expenses of the Senate, I report back favorably, without amendment, Senate Resolution 252 and ask unanimous consent for its present consideration.

Mr. McNARY. Mr. President, is this one of the measures now on the calendar?

Mr. BYRNES. No; it is a resolution providing that the attending physician at the Capitol may employ a rest-room attendant temporarily. The resolution is reported unanimously by the committee.

Mr. McNARY. I thought it was a resolution providing for an investigation.

Mr. BYRNES. No.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 252) submitted by Mr. COPELAND on March 15 was read, considered, and agreed to, as follows:

Resolved, That the attending physician at the Capitol is authorized to employ a rest-room attendant to be paid from the contingent fund of the Senate at the rate of $1,440 per annum until the expiration of the present session of Congress. Such attendant shall be attached to the office of the attending physician and shall possess such qualifications as he may deem desirable.

BILLS AND JOINT RESOLUTIONS INTRODUCED

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. NEELY:

A bill (S. 4013) granting an increase of pension to Martha A. McQuaid; to the Committee on Pensions.

By Mr. BORAH:

A bill (S. 4014) authorizing the naturalization of Samuel F. Swayne; to the Committee on Immigration.

By Mr. GREEN:

A bill (S. 4015) granting an increase of pension to Anne B. Kennon; to the Committee on Pensions.

By Mr. McNARY:

A bill (S. 4016) to amend section 9 of the act of May 22, 1928, authorizing and directing a national survey of forest resources; to the Committee on Agriculture and Forestry.

By Mr. SMITH and Mr. BYRNES:

A bill (S. 4017) to redistrict South Carolina and to divide said districts into divisions; and to amend paragraph 4n, section 1, Judicial Code (U. S. C., title 28, Supp. III, 1929), and section 105, Judicial Code (U. S. C., title 28, par. 186, 1925), as amended, and section 105, Judicial Code, as amended (U. S. C., title 28, par. 186, 1936), and for other purposes; to the Committee on the Judiciary.

By Mr. BROWN of Michigan.

A bill (S. 4018) to amend the National Firearms Act; to the Committee on Finance.

A bill (S. 4019) for the relief of Charles Albert Goetz; to the Committee on Immigration.

A bill (S. 4020) granting a pension to Delta Teachout; to the Committee on Pensions.

A bill (S. 4021) requiring 30 days' advance notice before discontinuance of any train carrying United States mails; to the Committee on Post Offices and Post Roads.

By Mr. WAGNER:

A bill (S. 4022) to amend the Federal Reserve Act in regard to charitable contributions, and for other purposes; to the Committee on Banking and Currency.

A bill (S. 4023) to amend the United States Housing Act of 1937; to the Committee on Education and Labor.

By Mr. KING:

A bill (S. 4024) authorizing advancements from the Federal Emergency Administration of Public Works for the construction of certain municipal buildings in the District of Columbia, and for other purposes; and

A bill (S. 4025) to amend the act of August 9, 1935 (Public, No. 259, 74th Cong., 1st sess.); to the Committee on the District of Columbia.

By Mr. CAPPER:

A bill (S. 4026) to relinquish jurisdiction to the State of Kansas to prosecute Indians or others for offenses committed on Indian reservations; to the Committee on Indian Affairs.

By Mr. LA FOLLETTE:

A joint resolution (S. J. Res. 295) to authorize sales and exchanges by the State of Wisconsin notwithstanding certain provisions in the act of August 22, 1912 (37 Stat. 324); to the Committee on Public Lands and Surveys.

By Mr. BARKLEY:

A joint resolution (S. J. Res. 296) authorizing the Joint Committee on the Library to procure oil portraits of former President Herbert Hoover and of President Franklin D. Roosevelt; to the Committee on the Library.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H. J. Res. 679) making appropriations for work relief, relief, and otherwise to increase employment by providing loans and grants for public-works projects was read twice by its title and referred to the Committee on Appropriations.

RECOMMITTAL OF A BILL

On motion by Mr. TYDINGS the bill (S. 3722) to amend sections 7, 14, and 20 of the Organic Act of the Virgin Islands of the United States (49 Stat. 1807) was taken from the calendar and recommitted to the Committee on Territories and Insular Affairs.

CORPORATE REORGANIZATIONS UNDER BANKRUPTCY ACT OF 1898—AMENDMENT

Mr. KING submitted an amendment intended to be proposed by him to the bill (H. R. 8046) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, and acts amendatory thereof and supplementary thereto; and to repeal section 76 thereof and all acts and parts of acts inconsistent therewith, which was referred to the Committee on the Judiciary and ordered to be printed.

DEVELOPMENT AND REGULATION OF CIVIL AERONAUTICS—AMENDMENTS

Mr. NEELY and Mr. McGILL each submitted an amendment intended to be proposed by them to the bill (S. 3845) to create a Civil Aeronautics Authority, and to promote the development and safety and to provide for the regulation of civil aeronautics, which were ordered to lie on the table and to be printed.

THE MAGAZINE RURAL PROGRESS—ADDRESS BY SENATOR MINTON

[Mr. NORRIS asked and obtained leave to have printed in the RECORD a radio address delivered by Senator MINTON on May 12, 1938, which appears in the Appendix.]

THE JUDICIARY—ADDRESS BY CHIEF JUSTICE HUGHES

[Mr. LOGAN asked and obtained leave to have printed in the RECORD the address delivered by Chief Justice Hughes before the American Law Institute on May 12, 1938, which appears in the Appendix.]

OPINION OF SUPREME COURT IN KANSAS CITY RATE CASE

[Mr. BARKLEY asked and obtained leave to have printed in the RECORD a letter addressed to the Chief Justice of the United States by the Secretary of Agriculture, and a statement by the Secretary of Agriculture to the New York Times, relative to the opinion of the Supreme Court in the Kansas City Rate case, which appear in the Appendix.]

CELEBRATION OF ANNIVERSARY OF FOREFATHERS' DAY

[Mr. LUNDEEN asked and obtained leave to have printed in the RECORD addresses delivered on the occasion of the celebration of the anniversary of Forefathers' Day in Philadelphia on April 8, 1938, which appear in the Appendix.]

THE RIGHT OF FREE SPEECH

[Mr. BRIDGES asked and obtained leave to have printed in the RECORD an article in the Boston Transcript, written by David Lawrence, entitled "Lawrence Sees Hague's Actions a Violation of the Labor Statute," and an editorial in the same paper entitled "Hagueism More than 'Local Issue,'" which appear in the Appendix.]

FEDERAL CONTROL OF WATER POLLUTION

[Mr. LONERGAN asked and obtained leave to have printed in the RECORD an article by Lt. Comdr. Charles W. Thomas, United States Coast Guard, published in Outdoor America, on the work of the Coast Guard in preventing pollution of navigable waters, which appears in the Appendix.]

RELIEF OF CERTAIN OFFICERS AND SOLDIERS—CONFERENCE REPORT

Mr. LOGAN. I present a conference report on House bill 2904.

The VICE PRESIDENT. The report will be read.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 2904) for the relief of officers and soldiers of the volunteer service of the United States mustered into service for the War with Spain and who were held in service in the Philippine Islands after the ratification of the treaty of peace, April 11, 1899, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same.

M. M. LOGAN,
ARTHUR CAPPER,
L. B. SCHWELLENBACH,
Managers on the part of the Senate.
ALFRED F. BEITER,
ARTHUR B. JENKS,
Managers on the part of the House.

Mr. LOGAN. Mr. President, the senior Senator from Utah [Mr. KING] desires to be heard on the conference report. So I ask that it lie on the table until such time as he may have the opportunity to do so.

NAVAL EXPANSION PROGRAM—CONFERENCE REPORT

Mr. WALSH. Mr. President, I submit the conference report on House bill 9218, to establish the composition of the United States Navy, and move its adoption.

The VICE PRESIDENT. The report will be read.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 9218) to establish the composition of the United States Navy, to authorize the construction of certain naval vessels, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: Restore the matter stricken out by said amendment amended to read as follows:

"(a) Capital ships, one hundred and five thousand tons, making a total authorized underage tonnage of six hundred and thirty thousand tons: *Provided*, That vessels of tonnages in excess of thirty-five thousand tons each may be laid down if the President determines with respect to the tonnage of capital ships being built by other nations that the interests of national defense so require, in which event the authorized composition of the United States Navy of capital ships is hereby increased by one hundred and thirty-five thousand tons, making a total authorized underage tonnage of six hundred and sixty thousand tons;

"(b) Aircraft carriers, forty thousand tons, making a total authorized underage tonnage of one hundred and seventy-five thousand tons;"

And the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: Restore the matter stricken out by said amendment amended to read as follows:

"SEC. 6. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $15,000,000 to be expended at the discretion of the President of the United States for the construction of experimental vessels, none of which shall exceed 3,000 tons standard displacement, and

the sum of $3,000,000 to be expended at the discretion of the President of the United States for the construction of a rigid airship of American design and American construction of a capacity not to exceed 3,000,000 cubic feet either fabric covered or metal covered to be used for training, experimental, and development purposes."

And the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following:

"SEC. 12. The construction, alteration, furnishing, or equipping of any naval vessel authorized by this act, or the construction, alteration, furnishing, or equipping of any naval vessels with funds from any appropriation available for such purposes, contracts for which are made after June 30, 1938, shall be in accordance with the provisions of Public Law 846, Seventy-fourth Congress, approved June 30, 1936, unless such course, in the judgment of the President of the United States, should not be in the interest of national defense."

And the Senate agree to the same.

DAVID I. WALSH,
MILLARD TYDINGS,
FREDERICK HALE,
Managers on the part of the Senate.

CARL VINSON,
P. H. DREWRY,
MELVIN J. MAAS,
Managers on the part of the House.

The VICE PRESIDENT. The question is on agreeing to the conference report.

Mr. VANDENBERG. Mr. President, may I ask the able Senator from Massachusetts what change was made in the amendment of the Senate to make the construction of larger battleships beyond 35,000 tons contingent upon findings that such construction was proceeding elsewhere?

Mr. WALSH. I shall be pleased to inform the Senator. The Senate bill affirmatively provided for capital ships of a total tonnage of 135,000 tons, in contrast with the House bill which affirmatively provided for capital ships of a total tonnage of 105,000 tons. Attached to the Senate provision was the proviso presented by the Senator from Michigan and adopted by the Senate.

The conference report takes the language of the House bill and fixes the tonnage of capital ships at 105,000 tons, making a total authorized gross tonnage of 630,000 tons. Then, it adds a proviso permitting the expansion to the tonnage designated by the language of the Senate bill if the President finds it to the interest of national defense to increase the tonnage.

Mr. VANDENBERG. May I ask the Senator whether that indicates any change in the attitude of the Department as repeatedly expressed by the Senator from Massachusetts upon the floor, namely, that there is no purpose to go beyond 35,000 tons except as it is determined that there is such construction elsewhere?

Mr. WALSH. All my information is that there is no purpose, no intention, and no desire to go beyond capital ships of 35,000 tons unless some other nation builds a capital ship of a higher tonnage.

Mr. VANDENBERG. That being so, may I ask the Senator what the objection was to saying so?

Mr. WALSH. The Senator realizes that in conferences it is sometimes necessary to compromise on language. The Senate conferees had some difficulty in obtaining recognition for any condition at all. The House conferees would have preferred to take the language in the Senate bill without the proviso, but the Senate conferees insisted upon the spirit of the proviso attached to the Senate bill on the motion of the Senator from Michigan; and, with some compromise in the language, a proviso is still attached to the conference report.

Mr. VANDENBERG. Would I, then, correctly understand the able Senator from Massachusetts if I were to feel that the bill still means what the Senate undertook to say in words that it should mean?

Mr. WALSH. In my opinion, it does. I think the intention of the Senator from Michigan has been fully carried out.

The VICE PRESIDENT. The question is on agreeing to the conference report. Without objection, the report is agreed to.

Mr. KING. Mr. President, the promptitude with which the Vice President declared the conference report agreed to precluded me from submitting a few observations in opposition to the conference report. I particularly desired to indicate my opposition to the provision in the report providing $3,000,000 for further experimentation in connection with dirigibles.

I voted against the naval bill when it was before the Senate, and the conference report fails to eliminate objections which I had to the original bill.

When the bill was before the Senate, I do not recall that the question of dirigibles was discussed. I had assumed from the tragic record of our Government, as well as other governments, with respect to dirigibles, that no further attempt would be made to construct these dangerous and, in my opinion, useless airships.

In 1933 the U. S. S. *Akron*, a dirigible ship costing $5,000,000, was lost off the Atlantic coast and 74 officers and men were drowned. The *Akron* was constructed by the most skillful technicians and builders. It represented the highest type of dirigible and had the benefit of the experience of other nations, as well as the experience of the best technicians and dirigible engineers that could be found in the United States. In its construction nothing was left undone to turn out the strongest and most perfect dirigible that the world had ever produced. The officers and crew had experience with dirigibles and had been selected because of such experience.

The *Shenandoah*, which had cost the Government more than $2,200,000, was destroyed in 1925, with the loss of 14 lives.

The Army nonrigid dirigible *Roma*, which cost the Government approximately $200,000, was destroyed in 1922, with the loss of 33 lives.

The *Los Angeles* rendered inconspicuous service and was discommissioned in 1932.

Senators remember the loss of the British dirigible, *R–101*, which cost the British Government considerably more than $5,000,000. It was destroyed in Beauvais, France, in 1930, with the loss of 38 lives, including Lord Thomson, secretary of state for air, and Sir Sefton Brancker, director of civil aviation.

The British airship, *R–38*, which cost the British Government several million dollars, was about to be delivered to our Government in 1921, but it broke in two in the air, with the loss of 44 lives, including 14 officers and men of the United States Navy.

Senators will remember that Italy had a tragic experience with dirigibles, and France's experience was equally disastrous.

Our Government has expended nearly $50,000,000 in the construction of dirigibles, and it would seem that with the losses sustained, both in ships and in men, the Government would not again embark upon the policy of building dirigibles. Those governments which for a time mistakenly believed dirigibles to be of use in connection with naval operations have abandoned their construction and use, and they are not squandering money in trying to revive dirigible construction.

Apparently there are some persons in the Navy who are obsessed with the idea that our Government must repeat its tragic experience and waste millions of dollars in experimentation looking to the construction of dirigibles. I protest against the appropriation carried in the bill which doubtless has for its object the laying of a foundation for larger appropriations for the construction of these dangerous and, as some believe, worthless airships.

It will be remembered that when General Balbo visited the United States with a large number of airplanes—not dirigibles—he stated, in substance, that his Government was not building and did not contemplate the construction of dirigibles.

I repeat that there is no justification for squandering $3,000,000 more in experimental work in connection with

dirigibles. It has been clearly proven that they are not of value in times of war either on land or sea. They have been floating coffins or, at least, have carried several hundred men to their graves.

I regret that the conferees agreed to the provision of the bill carrying this appropriation.

Following the destruction of the dirigible *Akron*, a joint select committee was appointed to investigate dirigible disasters. I happened to be chairman of that committee, and in my opinion the facts elicited justify the views which I have expressed.

Mr. McKELLAR. The Senator would prefer that the United States make this experiment with helium rather than to turn our supply of helium over to the Germans, under Mr. Hitler, would he not?

Mr. KING. Mr. President, the question suggested by the Senator is not involved in the matter which I have discussed. I am glad to state, however, that I commend the action of Secretary Ickes in refusing to allocate to Germany any of our helium supply. Certainly under the aggressive and threatening policies of Hitler neither he nor the German Government has a right to expect any contributions from the United States to strengthen Germany's hands. Neither comity nor a spirit of reciprocity justifies our Government in responding to the request of the German Government for helium.

Mr. McKELLAR. I desire to join with the Senator from Utah in his commendation of Secretary Ickes and think he is exactly right.

Mr. KING subsequently said: Mr. President, a few moments ago, I referred to Germany and the dominating character who controls the German Government. Under his administration, not only the Jews, but many Christians, have been persecuted and robbed and plundered. He has revived persecutions that blackened the pages of the history of the past, and is now enforcing decrees in Germany and in Austria which are cruel, inhuman, and call for universal condemnation. In my opinion, the peoples of civilized nations should raise their voices in protest against the barbarous treatment imposed by the ruler of Germany upon hundreds of thousands of individuals who have made material and spiriutal contributions to the growth and development of Germany.

An editorial appears in this morning's Washington Post, which temperately refers to the cruel treatment accorded to the Jews in Germany and to the violation by the German Government of treaty obligations. I ask permission to have this editorial read from the desk.

The VICE PRESIDENT. Without objection, the editorial will be read.

The legislative clerk read as follows:

[From the Washington Post of May 13, 1938]

EMPHATIC PROTEST

Germany's treatment of the Jews within her borders has, from the very beginning of the Nazi regime, shocked and outraged the civilized world. No indignity has been spared these helpless individuals whose only offense was, and remains, their race or their religion.

Deprived of all access to the professions, robbed of their citizenship and given the status of pariahs, cut off from one after another of the avenues of livelihood, the German Jews have been condemned to starvation and destruction. And all the while degraded publicists like Julius Streicher have been officially encouraged to pour forth a flood of unspeakable filth to foment hostility against the Jewish people.

In the first years of the Third Reich some German Jews managed to leave the prison which Germany had become for them. But even when this escape was sanctioned by the authorities, the exiles had to agree to leave behind a large part of their property. Now, by the latest decree, steps are to be taken to see that all Jews in Germany, presumably including Austria, will have no property to dispose of whether they stay or leave.

What makes this more than a matter of moral indignation is that the new decree applies not only to German Jews but to Jews of every nationality, including citizens of the United States. All in this category who hold property of any value in the Reich are called upon to declare their holdings. And General Goering, the commissioner for the 4-year plan, is authorized to use all fortunes so declared "in harmony with the requirements of German economy."

There is more than a little irony in the fact that such communistic action is undertaken by a regime which denounces communism as the world's greatest menace. But what is more to the point, so far as the United States is concerned, is that this decree contravenes a definite treaty which Germany is not empowered to denounce by unilateral action.

By the German-American pact of December 8, 1923, both Governments agreed that the property of their nationals residing under the sovereignty of the other "shall not be taken without due process of law and without payment of just compensation." Despite this pledge, the Nazi regime now very clearly plans to infringe on the rights of Americans who happen to be of Jewish faith or origin. With entire correctness, therefore, the United States Government has entered "emphatic protest" against this threatened move and is demanding assurance "that the measure will not be applied to American citizens."

It is evident that this strong protest can be ignored only at grave risk to German-American relations. The refusal to sell helium gas to Germany is one illustration of the type of unfortunate reprisal which will become inevitable if the German Government, most solicitous for the rights of Germans outside its frontiers, pursues a course which ignores solemn treaty obligations along with all other civilized standards and values. Procedure such as that which the Nazis now contemplate cannot remain one-sided. It begins to appear that this fact must be demonstrated to the Third Reich before it will be appreciated there.

Mr. McCARRAN. Mr. President, aside from the civil aeronautics bill which is now pending, and to which I wish to address myself by way of offering an amendment in a very short time, I desire to dwell for just a moment on the remarks of the Senator from Utah [Mr. KING] wherein he commends the action of the Secretary of the Interior for his positive decision as to helium. I think it is one of the outstanding things that commend Secretary Ickes over and above the splendid record he has had for some five and a half or six years, up to the present time.

In that respect I desire to go a little further. In a very short time we shall pass upon a great appropriation bill in which the money of the taxpayers of the country is to be used, as some say, to "prime the pump"; as others say, to start business going. If I had a vote and stood alone, I should put that entire sum in the hands of Secretary Ickes, in order that he might carry forward the great program he initiated in years past, under the guidance of Congress, under the Public Works Administration. I would rather see the money of the taxpayers of the country put into public works of a permanent nature, to which no man could successfully point the finger of scorn or the finger of criticism, than to see it go into W. P. A. projects, as to which no one up to date has dared ask for an investigation and have it made.

Mr. KING. Mr. President, I may say to the Senator that in a short time a resolution will be introduced asking for an investigation of the expenditures of the Works Progress Administration.

Mr. McCARRAN. The Senator will not get far with it.

DEVELOPMENT AND REGULATION OF CIVIL AERONAUTICS

The Senate resumed the consideration of the bill (S. 3845) to create a Civil Aeronautics Authority, and to promote the development and safety and to provide for the regulation of civil aeronautics.

Mr. McKELLAR. Mr. President, did I correctly understand from the Senator from Nevada that the amendment to come in on page 59 which was offered yesterday, and to which objection was made, would be withdrawn?

Mr. McCARRAN. Yes, Mr. President.

Mr. McKELLAR. I thank the Senator.

Mr. McCARRAN. Let me say that I did not offer the amendment. The amendment was offered by the chairman of the Committee on Commerce, the Senator from New York [Mr. COPELAND], sitting where I happen to be at this moment. The chairman of the Committee on Commerce, however, is unable to be here today, by reason of official business, and I have been instructed to withdraw the amendment. I desire to say, in that connection, that the amendment was offered on behalf of the Post Office Department by the chairman of the Committee on Commerce; and before this matter is entirely concluded I think the able chairman of the Committee on Post Offices and Post Roads may conclude to reverse his position. For the time being, however, the amendment is withdrawn.

The VICE PRESIDENT. Is there objection to the withdrawal of the amendment on page 59? The Chair hears none.

Mr. McKELLAR. Mr. President, if there is any subsequent attempt to offer the amendment, I hope I may be notified.

Mr. McCARRAN. If there is any subsequent attempt to offer the amendment, so far as I am concerned, I shall see that the Senator from Tennessee is notified.

Mr. McGILL. Mr. President, I am interested in understanding the provision of the bill which appears on page 34, which I understand was amended, the so-called "grandfather clause." I understand it was amended yesterday. The amendment appears on page 8914 of this morning's RECORD.

There is now under consideration an air line to be established between Wichita, Kans., and Pueblo, Colo. The line at this time is under process of being established. Airports are being constructed at the present time at Hutchinson, Kans., Dodge City, Kans., Garden City, Kans., and I think also at Pueblo, Colo. At other places similar lines are under process of being established. Proposals have been submitted to air-transportation companies to carry the mail by air between the points I have named. Bids have been submitted to the Post Office Department by various air-transportation companies and are now under consideration by that Department. Considerable moneys have been expended, and I should like to know whether, if this measure shall be enacted in the form in which it is now pending, including the amended section to which I have referred, it will affect that situation. Will it invalidate what has heretofore been done and is now being done with reference to establishing this line, and the accepting or rejecting of bids which have now been submitted by transportation companies for the transportation of air mail between Wichita, Kans., and Pueblo, Colo.?

Mr. McCARRAN. Mr. President, in answer to the Senator from Kansas, I may say that there has been nothing more controversial in this entire study than the subject which the Senator brings up. I do not believe there is a State in the Union which has not the same problem. I doubt if there is a section in the country which has not the same problem as that which presents itself through the expression of the Senator from Kansas.

We tried to work the matter out with due regard for what we commonly understand as the "grandfather clause." It is my belief—and I express my individual idea now—that those who pioneer a line, who put their energy and their activity and their initiative, and their money as well, into a line, hoping to develop sufficient income from one source or another, should have a preferential place in the picture. That has been very general. It is general in modern legislation. We recall the legislation which placed the bus and truck lines under the Interstate Commerce Commission, recognizing their priority, recognizing their having pioneered lines.

If we throw down the bars and provide that everyone between now and the time this bill is approved who sets up a line, regardless of how that line may be equipped, regardless of how it may be set up, shall be recognized, then we will have torn down the morale of the industry, to speak very plainly, then we will have torn down the initiative which belongs to what we commonly understand as the "grandfather" policy, that those who pioneered when there was no legislation, and those who loaned their money and gave their efforts when there was no legislation, should be recognized.

To find a date that was in keeping with justice and fair play has been a very difficult task. It will be noted that the bill sets up December 1. It will be noted that the alteration in the bill through amendment offered by the Senator from New York [Mr. COPELAND], the chairman of the Committee on Commerce, makes a complete change in that respect. The Senator will note my own amendment to the amendment offered by the chairman of the Committee on Commerce. The whole matter was laid before us, and I accepted without resistance the amendment offered by the Senator from New York [Mr. COPELAND] yesterday, with my own amendment added, hoping that in conference we might be able to work the matter out on the basis of equity and fair play, always keeping in mind the reward, as I think a reward should be granted to those who pioneer a line.

If I could give a broader or more explicit explanation to the Senator from Kansas I would do so, because any offer of an amendment will be confronted with the same objection, with the same condition. Some one eventually must work the problem out, and we have tried to give the provision latitude so that the committee of conference can work it out in keeping with fair play. I hope we are right. I will not vouch for it.

Mr. McGILL. Mr. President, something like 2 years ago an authorization measure was passed by the Congress and since then Congress made an appropriation providing for moneys for the carrying of mail by air on a route to be established between Wichita and Pueblo, and a provision was adopted authorizing the Post Office Department to submit invitations for bids to air-mail carriers to carry mail between those two points.

Mr. McCARRAN. May I interrupt at that point?

Mr. McGILL. Certainly.

Mr. McCARRAN. I desire to interrupt so that the Senator may carry this thought with him as he discusses the matter. A distinction is to be made between a line established and the extension of a route. I hope the Senator has those two things in mind. As the Senator well knows, we have appropriated for extensions of routes, and, if I recall correctly, we have appropriated also for the establishment of lines, to be under the supervision and direction of the Post Office Department. I hope the Senator in discussing the matter will keep in mind as to whether the line to which he refers is an extension, or the establishment of a route.

Mr. McGILL. I was about to say that the appropriation has been made. The Post Office Department has submitted proposals to different air-transportation concerns. Bids have been made and are now before the Department and, as I understand, are under consideration by the legal division of the Post Office Department to determine the validity and legality of the bids, and the lowest responsible bidder would in all human probability be given the contract.

The Senator will understand that there are now air lines existing between Kansas City, Mo., and points west of Kansas City to Wichita, Kans., and from there on south through Oklahoma and other States. I think those lines are operated by what is known as the Braniff Co. Whether the Braniff Co. was the lowest bidder and would be granted the contract to carry the mails no one can now determine except those in the Department who have access to the bids. Therefore it would be impossible to say that the proposed line would be an extension of their line. It might and it might not be, but it would be an extension of air-transportation service either by the Braniff Lines or some other line which would have to connect with the Braniff Lines from Wichita on west to Pueblo.

In view of the fact that an appropriation has been made, and in view of what has taken place by virtue of authority granted by Congress, it seems to me unjust to pass a measure now which would in effect invalidate all that has been done, since there have been considerable expenditures made, not only by the Federal Government but by municipalities as well, in the matter of building of airports with which the extension or new line could operate.

Mr. McCARRAN. I shall interrupt the Senator from Kansas at that point to say that I have had extended communication and correspondence with Mr. Braniff, of the Braniff Lines. I do not think any organization has been more roughly dealt with than has that of Mr. Braniff.

None of the small operators has more of my sympathy than the operators of the Braniff Lines. The small operators must of necessity be considered. It is our object and purpose that an independent agency shall be set up by the bill which eventually will not only give to the great operators, such as the United, the T. W. A., and the American and other lines, but will give to the small operators an opportunity to have life, if I may so express it tersely, and to have

the right to operate, and to have the right to enjoy their investment and the fruit of their courage, because it requires investment and courage to initiate air lines. The whole object, so far as I am concerned, in initiating this legislation has been to establish an independent agency so that air lines such as the Braniff Lines, and other lines of similar nature and character, may have a secure place in the picture for their service. That is the reason the bill provides that when a certificate of convenience and necessity is given, there follows and flows therefrom the right to carry the mail.

The bill provides something else which the Senator may not have thought of. It does away with competitive bidding. There will no longer be any competitive bidding if the bill goes into effect. In other words, there will be a fixing of rates by the authority on a given line in keeping with that line's economic necessity, and in keeping with the service to be rendered. So the Braniff Lines and many other lines which have raised the question of "where do we stand in this picture?" may rest at ease, because the new authority, looking to a new service and looking to a continuation of a service by which the public is to be served, will not be hampered by the impediment of competitive bidding.

I should like to invite the thought of the Senator to that point, so that he may dwell on it as we go along. I am opposed to completitive bidding. I think in the Star Route Service competitive bidding has developed to a point where it is destroying the Service, and members of the Senate Committee on Post Offices and Post Roads, not including the chairman—I do not want to include the chairman, because I do not wish to start anything which would lead to a protracted discussion—realize the fact that the Star Route Service has reached a point which is degrading the operators by reason of the way they are underbidding each other. Today in this Service some lines are bidding a mill a mile. We all know that mail cannot be flown for a mill a mile, and we know that those lines are looking to some other authority than the I. C. C., which possesses the authority today, to investigate the situation and to establish a just rate for the carrying of the mail. If there were an independent agency to which the air lines could go, it seems to me that the Braniff lines and other lines similarly situated and conducted would have no complaint. That at least is the object and aim of the author of the bill.

Mr. McGILL. I think they would have no complaint insofar as the present lines now being operated by them are concerned. I call attention to the provision of the section under consideration:

If any applicant shall show that from December—

Mr. McCARRAN. Is the Senator referring to the amendment?

Mr. McGILL. I am referring to the amendment proposed by the Senator from New York [Mr. COPELAND]. It occurs on page 6767 of yesterday's RECORD:

If any applicant shall show that from December 1, 1937, until the effective date of this section, it, or its predecessor in interest, was an air carrier, continuously operating as such (except as to interruptions of service over which the applicant or its predecessor in interest had no control), the Authority, upon proof of such fact only shall, unless the service rendered by such applicant for such period was inadequate and inefficient, issue a certificate or certificates, authorizing such applicant to engage as an air carrier in air transportation with respect to all classes of traffic for which authorization is sought, except mail, between the terminal and intermediate points between which it, or its predecessor, so continuously operated between April 15, 1938, and the effective date of this section, and also authorizing such applicant to transport mail between the terminal and intermediate points between which the applicant, or its predecessor, was authorized by the Postmaster General to engage on April 15, 1938, in the transportation of mail.

It seems to me that the operators would be protected in every way, except insofar as concerns the establishment of a new or extension route which is being established under authority of a recent act of Congress, for which moneys are being expended and have been expended. The bids might or might not be accepted, but if the pending measure is finally adopted under such circumstances, the result would be to nullify what has heretofore been and will be done. I am not raising any question now about someone starting a new line without any authority having heretofore been granted by the Congress for it or appropriations made therefor by Congress. It seems to me that we should protect what the air-line operators have been doing under an appropriation we have heretofore made.

Mr. McCARRAN. I wonder if the Senator from Kansas has considered section 405, on page 47 of the bill.

Mr. McGILL. I have not attempted to construe that, I may say to the Senator from Nevada, in conjunction with the matter under discussion.

Mr. McCARRAN. I should be glad to have the Senator do so, and perhaps take the matter up with me a little later on the floor.

Mr. McGILL. Very well. I assume the bill will not be passed within a short period.

Mr. McCARRAN. I do not imagine so.

Mr. McNARY. Mr. President, I did not hear all the conversation that has taken place on the other side of the aisle. May I make an inquiry of the Senator from Nevada? Does the Senator from Kansas propose an amendment which was accepted?

Mr. McCARRAN. No. There has been no amendment proposed. The Senator from Kansas was asking some questions.

Mr. McGILL. I have not proposed an amendment up to this time.

Mr. McNARY. I could not understand the conversation taking place on the other side of the aisle. I did not know whether the bill had been amended in my absence. At the distance I was from the Senators I could not hear what was being said.

Mr. McCARRAN. I will say to the Senator from Oregon that an amendment to the bill was offered yesterday by the chairman of the Committee on Commerce, who reported the bill. That amendment, as it appears in the RECORD, was the subject of the discussion.

Mr. McNARY. I thank the Senator.

Mr. McCARRAN. I should like to proceed with offering these amendments, and then I shall yield for any questions or suggestions.

Mr. ADAMS. Mr. President, I should like to make an inquiry of the Senator from Nevada. At some convenient time I should like to move to take up a bill providing appropriations for the social-security service, which is very necessary to the States. When the Senator reaches a convenient time, I should like to move to take up that bill.

Mr. McCARRAN. How much time would be required.

Mr. McNARY. Is the bill on the calendar?

Mr. ADAMS. It is.

Mr. McNARY. Mr. President, I stated yesterday that I should object to the intrusion of any business which interfered with the unfinished business. I want the unfinished business disposed of. When the unfinished business is disposed of I shall be very glad to cooperate with the able Senator from Colorado in obtaining consideration of his bill. The present occupant of the chair will recall that I objected to a similar request made by him. Many times during the course of the discussion and consideration of bills other bills obtrude themselves until we lose the whole chain of our thought and argument. Another consequence which is bad is that absent Senators are not apprised that some bill is to be taken up when there is unfinished business before the Senate.

For that reason I shall object to the consideration of any other business until the unfinished business is finally disposed of.

Mr. ADAMS. Mr. President, I was trying to meet the very point the Senator had in mind. I do not wish to interrupt the orderly course of procedure. I inquired whether or not the bill to which I refer, which is an emergency measure, might be considered at a convenient time. The bill involves an appropriation for the expenses of carrying on the social-

security activities in the States. The money now available for the purpose will be exhausted on the 15th of May.

The matter is one which ought not to be carried over. I was merely inquiring if the bill could be taken up at some convenient time. The matter is not an ordinary one. The bill has been on the calendar for a number of days.

Mr. McNARY. The Senator is always gracious and courteous. Nevertheless, I am still unmoved by his plea. I shall object to the consideration of his bill or any other bill until the unfinished business is disposed of.

Mr. ADAMS. The Senator may soften after a while. I shall make another appeal to the Senator later.

Mr. McNARY. I rarely soften in such matters. I am sure we can dispose of the unfinished business if I take my seat and permit the Senator from Nevada to proceed.

Mr. McCARRAN. Mr. President, I move that the Senate reconsider the vote by which the amendment offered by the committee on page 39, line 20, was agreed to yesterday. The amendment struck out the words "any part of whose duty" and inserted the words "whose principal activity." I have conferred with the chairman of the Committee on Commerce, and I am authorized by him to say that he, as the author of the amendment, agrees that the amendment should be reconsidered and rejected.

The PRESIDENT pro tempore. Without objection, the vote is reconsidered. The question is on agreeing to the amendment.

Mr. McCARRAN. I ask that the amendment be rejected.

Mr. NEELY. Mr. President, may we have the amendment stated?

The PRESIDENT pro tempore. The amendment will be stated.

The LEGISLATIVE CLERK. On page 39, line 20, the amendment struck out the words "any part of whose duty" and inserted the words "whose principal activity", so as to read:

(5) The term "pilot" as used in this paragraph shall mean an employee who is responsible for the manipulation of or who manipulates the flight controls of an aircraft while under way, including take-off and landing of such aircraft, and the term "copilot" as used in this paragraph shall mean an employee whose principal activity is to assist or relieve the pilot in such manipulation, and who is properly qualified to serve as such pilot or copilot and is licensed as such by the Authority.

The PRESIDENT pro tempore. The question is on agreeing to the amendment on page 39, line 20.

The amendment was rejected.

Mr. McCARRAN. Mr. President, the committee amendments having been disposed of, I send to the desk and ask to have stated an amendment, on page 5, line 10, of the bill. So that the amendment may be in order, I ask unanimous consent that the vote by which the Senate adopted the committee amendment, on page 5, line 10, be reconsidered.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the vote is reconsidered. The amendment to the committee amendment will be stated.

The LEGISLATIVE CLERK. On page 5, line 10, after the word "who" and before the word "is", it is proposed to insert "engages in or", and in line 11, after the word "is" and before the word "in", it is proposed to insert the word "directly", so as to read:

And (except to the extent the Authority may otherwise provide with respect to individuals employed outside the United States) any individual who engages in or is directly in charge of the inspection, maintenance, overhauling, or, etc.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. McCARRAN. I send to the desk another amendment, which I ask to have stated.

The PRESIDENT pro tempore. The amendment will be stated.

The LEGISLATIVE CLERK. On page 5, line 16, after the word "facility" where it occurs the second time, it is proposed to insert "including landing areas."

Mr. McKELLAR. Mr. President, I have no objection to that amendment.

The amendment was agreed to.

Mr. McKELLAR. Before the next amendment is offered, I wish to make a statement concerning the matter which the Senator from Kansas was discussing a few moments ago.

Mr. McCARRAN. Will the Senator withhold his statement until we have completed the amendments?

Mr. McKELLAR. My statement will take only a moment.

Mr. McCARRAN. Very well.

Mr. McKELLAR. Mr. President, in the appropriation bill which was signed by the President on March 28, 1938, a number of lines were authorized and appropriations were made therefor. One line was from Houston to Brownsville, Tex.; another was from Tampa, Fla., to Memphis, Tenn.; a third from Detroit, Mich., to Sault Ste. Marie; a fourth from Jacksonville, Fla., to New Orleans, La.; a fifth from Wichita, Kans., to Pueblo, Colo., concerning which the Senator from Kansas has just spoken; and a sixth from Phoenix, Ariz., to Las Vegas, N. Mex. Bids have been advertised and received and contracts have been let in all cases except the case of the line from Houston to Brownsville, and the necessary steps are in process at this time with respect to that line.

I will say to the Senator from Nevada that there ought to be some amendment which would eliminate all uncertainty as to what has been done with respect to these lines. Two extensions of lines have been provided for, one from Grand Rapids to Chicago and another from Yakima, Wash., to Portland, Oreg. Up to this time the extensions have not actually been put in operation.

So far as the several lines are concerned, I believe the Senator from West Virginia [Mr. NEELY] has prepared an amendment. Either that amendment or some effective amendment ought to be agreed to so that the provisions of the bill will not interfere with any of the lines upon which the Congress has already acted, and which have been put into operation to the extent I have indicated.

Mr. McCARRAN. Mr. President, I shall try to work the matter out with the Senator from West Virginia as soon as I have finished with these amendments.

Mr. McKELLAR. With that explanation, I shall say no more at this time. When the Senator completes his amendments, we will take up the matter.

Mr. McGILL. Mr. President, will the Senator yield?

Mr. McCARRAN. I yield.

Mr. McGILL. Let me say to the Senator from Tennessee that I have read the amendment to be proposed by the Senator from West Virginia, and I do not think it reaches the matter we have under discussion, or the point involved in what the Senator deems to be a necessary amendment.

Mr. McCARRAN. After 4 years of study of the matter I have been unable to discover an amendment which will reach the point. So, if the able Senator can find one on the floor which will cover the matter, he deserves a medal. If we are to preserve the "grandfather clause," as we recognize it should be preserved, and at the same time try to take care of everyone who starts a line, I do not know where the twilight zone of reconciliation between the two theories lies. We must either support the "grandfather clause" and say that those who pioneered the lines, who invested their money, and put their energy and their courage into unsurveyed lines, shall be recognized, or else we must throw down the bars and say, "Come on, everybody," from now on until the bill is signed. If we adopt the latter course, we shall destroy the industry; we shall destroy initiative, courage, and investment.

Mr. McKELLAR. That is not the purpose of the proposed amendment. Whether or not it has that effect, I do not know. The purpose of the amendment is to put the six established lines and the two extensions on exactly the same basis as all other lines now in existence. Then we can determine whether or not it is proper to apply to them what the Senator calls the "grandfather clause." I should like to know in what section the "grandfather clause" is found.

Mr. McCARRAN. It is found on page 34.

Mr. McKELLAR. Whatever clause is applied to the lines already in existence should be applied to the eight lines

which I have mentioned, just as though they were now in existence and operating.

Mr. McCARRAN. But they are not grandfathers. They are grandchildren.

Mr. McKELLAR. They may be; but they have been established by the Congress, and if I have anything to do with it, they will stay in the law. I hope the Senators who are interested in the lines, and who have made the fight and have won the fight before this body and before the House, will have enough interest in their own affairs to see that the law which we have already passed is not immediately repealed by some "grandfather clause" concerning which I know nothing.

Mr. McCARRAN. Mr. President——

Mr. TRUMAN. Mr. President, will the Senator yield?

Mr. McCARRAN. I will yield in just a moment. Let me say that the able Senator from Tennessee has no more desire to be fair than has the author of this bill. For years I have tried to work out a degree of fairness; but the able Senator from Tennessee cannot threaten me with anything on the floor of the Senate.

Mr. McKELLAR. I did not mean to do so.

Mr. McCARRAN. Just a moment. I did not ask for an interruption.

Mr. McKELLAR. I did not intend to threaten the Senator.

Mr. McCARRAN. The Senator cannot threaten me. I am not here to be threatened. If I am voted down, I shall accept defeat. If, however, it is desired to introduce an element of fairness, I shall be the first one to go forward with it.

Mr. McKELLAR. I hope the Senator will not think I am trying to threaten him in any way. What I am trying to do is to protect the rights of those who have already obtained rights from the Congress; and I am determined to do so.

Mr. NEELY. Mr. President, will the Senator from Nevada yield to me to offer the amendment to which the Senator from Tennessee has just referred?

Mr. McCARRAN. Certainly.

Mr. KING. Mr. President, I myself desire to make some observations.

The PRESIDENT pro tempore. The amendment proposed by the Senator from West Virginia will be stated.

The LEGISLATIVE CLERK. On page 56, after line 11, it is proposed to insert the following:

EXPERIMENTAL AIR-MAIL SERVICE

Nothing contained in this act shall be construed to repeal in whole or in part the provisions of section 1 and 2 of the act entitled "An act to provide for experimental air-mail service, to further develop safety, efficiency, economy, and for other purposes, approved April 15, 1938 (Public, No. 486, 75th Cong., ch. 157, 3d sess.)." The transportaton of mail under contracts entered into under such sections shall not, except for sections 402 (n) and (o), be deemed to be "air transportation" as used in this act.

Mr. McCARRAN. Mr. President, will the author of the proposed amendment allow it to rest in abeyance until I can look the amendment over and see what we can do with it? I should like to work it out with the Senator as best I know how.

Mr. McKELLAR. I hope the Senator will do that for the reason I think the amendment is not sufficiently specific, and I think it should be made more specific, under the circumstances.

Mr. McCARRAN. I will go to the desk in just a moment and get the amendment and try to work it out as best I know how to accomplish the desired end. I do not know whether or not it can be done.

Mr. NEELY. Mr. President, of course, I gladly accept the suggestions of the Senator from Nevada and the Senator from Tennessee.

Mr. AUSTIN. Mr. President——

Mr. McCARRAN. I yield to the Senator from Vermont.

Mr. AUSTIN. I should like to address a question to the Senator from West Virginia. Is it the impression of the Senator from West Virginia that anything contained in this proposed act would repeal any part of the act to provide for experimental air service, to further develop safety, efficiency, economy, and for other purposes, approved April 15, 1938?

Mr. NEELY. Mr. President, without the amendment which I have proposed, in behalf of the Senator from Tennessee and myself, I fear that certain provisions of the existing law will be repealed.

Mr. AUSTIN. That does not answer the question, Mr. President. I confined the question absolutely to the act of April 15, 1938. I know that there are express provisions in the pending bill which would repeal definite laws, but whether there are any provisions that repeal any part of the act of April 15, 1938, was the question which I asked.

Mr. NEELY. Mr. President, if I did not fear that the bill before the Senate would repeal the specific provisions of the act of April 15, 1938, to which my amendment refers, I should not have offered it.

Mr. McCARRAN. I will say that if there is anything in the bill that would repeal the provisions referred to by the Senator from West Virginia, it is not the intention of the bill nor the intention of the author to repeal them, and I do not believe the bill would repeal them.

Mr. AUSTIN. I am very much concerned about that.

Mr. McCARRAN. The Senator from Vermont and the Senator from West Virginia need not be concerned.

Mr. AUSTIN. If I thought that this bill would repeal that act, I would be very much opposed to the bill.

Mr. McCARRAN. Certainly; we all would be opposed to it.

Mr. KING. Mr. President, I do not wish to take the Senator from Nevada from the floor, but I desire to submit a few observations, if I may.

Mr. McCARRAN. Does the Senator from Utah desire the floor?

Mr. KING. Yes.

Mr. McCARRAN. Temporarily, then, I yield the floor.

Mr. KING. Mr. President, the members of the committee who drafted the pending bill undoubtedly are familiar with its terms, but some Senators have not had opportunity to study its provisions.

From the discussion of its terms this morning, I have been confused as to their meaning and effect. If the purpose of the bill is to "freeze" certain contracts, or certain activities of a number of companies or organizations, and to give them rights in perpetuity to the exclusion of others; if the bill erects bars to protect those who now have contracts or now have established air lines and to prevent other persons or other corporations from obtaining franchises and rights to operate airplanes, I would hesitate to vote for the bill.

I recognize the fact that the art of aviation has made progress; that regulation is needed much the same as railroads are regulated by the I. C. C. I recognize the fact that there are some fields already adequately served by existing lines, but the growth of the country will call for other air lines and facilities. Undoubtedly there must be some discretion vested in a board or agency to grant permits and rights-of-way through the air; but I should be reluctant to vote for a bill that was a guaranty to certain agencies and certain organizations that they shall be perpetuated, and that other applicants for rights-of-way and for permits should be denied consideration.

It seems to me that the "grandfather" clause, using the phrase employed by my friend from Nevada, may be utilized to prevent the development of this art and the establishment of new air routes; and I am concerned to know just how far authority is granted to the authority which is being set up to restrict and restrain the development of the art and how far the bill "freezes" existing routes and corporations that have established airplane routes throughout the United States. If it authorizes their activities to the exclusion of others who may desire to enter this great field, then I think there should be some amendments that would fully protect the public and protect those who are interested in the development of this great art.

Mr. McCARRAN. Mr. President, may I answer the Senator at that point? I think he would want the information.

Mr. KING. I should be very glad to be advised.

Mr. McCARRAN. Let me say to the Senator that, first of all, I think the Senator's mind and mine run along the same lines; in other words, it is the public which is to be served.

Mr. KING. Absolutely.

Mr. McCARRAN. It is the public in whom we are interested; that is the primary consideration. The bill has in contemplation that service all the way through, but, together with that, we must remember that those who sought to serve the public in this field, either under no law at all or under the existing law, which is known as the McKellar-Black law, or other existing laws, should have some recognition as pioneers, we will say. There is nothing in this bill and nothing in the spirit of the bill or in the philosophy of the bill that would take from those pioneers anything that they have established. On the other hand, we desire to give to them the best of "the break," if I may use a common expression.

Again referring to public necessity and convenience, permit me to use an illustration with which the Senator is familiar. If it could be established to the satisfaction of the Authority which is about to be set up that another line could well be operated from Chicago to Salt Lake City, although that same territory is now served by the United Air Lines, and the demand for service was so great as to support another line, then the Authority could investigate, reach a determination, establish a rule, and could say, "There is sufficient demand, there is sufficient patronage, and there is sufficient commercial life to sustain the other lines. Therefore we can grant a franchise to another line." But before that could be done, full and complete hearings would have to be had. So we are trying to set up a nonpolitical agency that will go into matters such as the one I have tried to illustrate, and if the circumstances do not justify another line, say "No, you cannot go in; you cannot set up another line, because if you do both lines will fail; both lines will go out of business, and the public that we are looking to primarily will not be served." That is the object and purpose of this entire bill. It is not to say that any line may be "frozen" nor that any line may be perpetuated, nor that any monopoly over any terrain may be established to the exclusion of the necessity which the public may present.

I have tried to explain the matter to the Senator, and I hope I have done so.

Mr. KING. Mr. President, I am interested in the statement made by my friend from Nevada, and I think I assent to all that he has just stated. I have been a little disturbed, though, from observations which I have heard as I have come into the Chamber from time to time during the discussion, as to the effect of this bill upon the future of aviation.

I agree with my friend that there must be some authority to determine whether rights-of-way and certificates of convenience and necessity shall be granted. If when during the period of the railroad-building mania a few years ago we had had an instrumentality to determine whether many of the roads were necessary, and that question had been determined adversely, millions and hundreds of millions of dollars of capital which have been wasted would have been saved. Many railroad lines have been constructed which should never have been constructed. Scores of railroads are in the hands of receivers and hundreds of millions of dollars have been lost by improvident expenditures in unnecessary railroad lines. I agree, therefore, that there should be some authority to determine whether the public will be convenienced, whether there is a necessity for the establishment of other lines, and to weigh all the facts and circumstances, with a view to determining whether the necessary certificate shall be issued.

Mr. TRUMAN. Mr. President——

Mr. KING. I yield.

Mr. TRUMAN. If the Senator will read title IV of the bill, on page 31, over to the bottom of page 35, his question will be completely answered.

Mr. KING. Mr. President, there is one other matter which has been brought to my attention in view of the statement made by the Senator from Tennessee. I was wondering whether it is understood that all of the air-mail routes which have been established—and I fear some of them were unnecessary, and were not warranted by the traffic or by the demands of the public—are to be continued. Will not the authority which has been set up have the right to determine whether or not a certificate shall be issued to them?

Mr. McCARRAN. Mr. President, if I may answer the specific question of the Senator from Utah, that is exactly the question presented to me by the Senator from Kansas and the Senator from Colorado and the Senator from Tennessee just a moment ago, if I correctly recall. Specific lines are set up for which appropriations have been made. They are either lines or extensions of lines. This is the atmosphere through which we are passing——

Mr. KING. Let me say, with respect to that matter, that I should be unwilling to freeze them without investigation to determine their necessity.

Mr. McCARRAN. If the Senator will pause for a moment, he may change his mind to some extent.

Mr. KING. I think the Senator agrees with me.

Mr. McCARRAN. Perhaps so; but a constituted authority has already set up these lines. That constituted authority was the Post Office Department. The Department came to Congress and said, "We want an appropriation for this line, and this one, and this one. We want an appropriation for every line that Tennessee wants." That is what they asked for, because Tennessee wanted them, and Tennessee got them.

Mr. KING. I am opposed to it.

Mr. McCARRAN. Tennessee got them because Tennessee had a battling Senator here who saw to it that Tennessee did get them, and he is now here battling some more. So those lines have been set up by a constituted authority. The constituted authority said they were essential. The public wanted them. The political power wanted them. We want to get away from political powers, so that hereafter a nonpolitical agency will set up lines and establish them, on the basis of what? On the basis of public necessity and convenience.

Mr. KING. Mr. President, the constituted authority which I recognize is the Constitution of the United States and such agencies as may be created under and by virtue of the Constitution of the United States. The fact that any Department has said, "We want an air line," or "We want a bus line," does not justify the view that the lines must be continued, and are to be perpetuated at the expense of the public.

Mr. McCARRAN. Mr. President, I appreciate what the able Senator from Utah says.

Mr. WHITE. Mr. President——

Mr. McCARRAN. The Senator from Maine has been very gracious with me. I just want to get through with a few amendments, and then I will yield to the Senator. Will that be all right?

Mr. WHITE. Certainly, Mr. President.

Mr. McCARRAN. On page 10 of the bill I offer an amendment, which I send to the desk and ask to have stated.

The PRESIDENT pro tempore. The amendment will be stated.

The LEGISLATIVE CLERK. On page 10, line 2, after the word "water", it is proposed to insert "including airports and intermediate landing fields."

The amendment was agreed to.

Mr. McCARRAN. On page 30 I offer an amendment.

The PRESIDENT pro tempore. The amendment will be stated.

The LEGISLATIVE CLERK. On page 30, line 11, it is proposed to strike out the words "adequate and safe for the purposes of which it is designed or intended to be used and is."

The amendment was agreed to.

Mr. McCARRAN. On page 31 I offer an amendment.

The PRESIDENT pro tempore. The amendment will be stated.

The LEGISLATIVE CLERK. On page 31, line 1, it is proposed to strike out "January 15, 1940" and insert "February 1, 1939."

The amendment was agreed to.

Mr. McCARRAN. On page 75 I offer an amendment.

The PRESIDENT pro tempore. The amendment will be stated.

The LEGISLATIVE CLERK. On page 75, at the end of line 9, it is proposed to strike out the period, insert a colon, and add the following:

Provided, That there shall be no exemption from paragraph (1) of section 401 of this title for carriers engaged in scheduled air transportation or in the transportation of mail by aircraft.

The amendment was agreed to.

Mr. McCARRAN. I now yield to the Senator from Maine.

Mr. WHITE. Mr. President, if it is in order at this time, I move to strike out section 802, appearing on page 102 of the bill.

This section, in substance, provides that—

Whenever * * * the public interest requires agreements to be negotiated with foreign governments for the establishment or development of air * * * services, the Secretary of State—

And I am now reading from line 18—

shall initiate and conduct such negotiations and conclude such agreements as may be satisfactory to the Authority and to the President.

Then the section goes on with some other details.

Mr. President, it seems to me this section gives no authority which the President of the United States or the executive arm of the Government does not now have as inherent in the executive authority of the United States. Quite apart from that, however, the provision seems to me to be a very definite limitation upon the clear authority of the Executive in negotiating international agreements; for this section says that the Secretary of State may "conclude such agreements as may be satisfactory to the Authority and to the President" of the United States. In other words, there must be the concurrence of the authority with the President of the United States.

I submit to the Senator from Nevada [Mr. McCARRAN], and I submit to the present occupant of the chair, who is also the chairman of the Foreign Relations Committee of the Senate, that we should not by any language undertake to limit the authority of the President in the field of international negotiation, and I also express the opinion that we cannot constitutionally do so.

I think, therefore, that the section in its entirety should be stricken from the bill.

Mr. McCARRAN. Mr. President, if I may say so to the Senator from Maine, there are various phases of this matter to be considered. The authority cannot control in foreign parts. The authority can control an American-flag air line flying abroad. It can control it with regard to many things within the territorial boundaries of the United States. An American-flag line flying abroad must of necessity acquire landing privileges abroad. Landing privileges abroad can be acquired only by and through and with the cooperation of the State Department; and the President of the United States of necessity comes into the whole situation. But there is such a blending of authority there that it was the view of the author of the bill that the President, the Secretary of State, and the authority should have a very important part to play, not taking from the President any power, permitting him to retain every power he has, and giving him more, too, and likewise bringing in the State Department, because of necessity the State Department must come in. It must negotiate with foreign countries; and then comes the authority itself, because the power of the authority immediately impinges when the American-flag line touches the territorial boundaries of this country.

Mr. WHITE. Mr. President, of course, it is inconceivable that the Executive authority, in conducting negotiations with a foreign nation with respect to an international agreement, would not consult with all his advisers—the authority, the Secretary of State, and whoever else might be interested in the general subject.

Mr. McCARRAN. That is true.

Mr. WHITE. After all, however, the final responsibility for conducting the negotiation and for the conclusion of international agreements rests with the President of the United States.

Mr. McCARRAN. I grant that to be so.

Mr. WHITE. We do not need to give him any of the authority here suggested; and I say that when we write into the bill the language—

Conclude such agreements as may be satisfactory to the Authority and to the President—

we have given, or attempted to give, a concurrent authority to the aeronautics authority set up in the bill and to the President.

There ought not to be any such concurrent authority at all. The only body that should have any voice with respect to a negotiation conducted by the President of the United States and its conclusion is the Senate itself. I simply urge that we ought not in this way, and I believe we cannot in this way, limit or control the authority of the President by making it concurrent with that of the air authority.

Mr. McCARRAN. First of all, let me say to the Senator that the air authority that we propose to set up must of necessity have absolute control over the industry after it comes within the continental boundaries of the United States. The President would not want to control it after it came in here.

Mr. WHITE. That is not what the section says. The section gives to the air authority and the President control over the negotiation of an international agreement.

Mr. McCARRAN. There, again, it may be essential, because labor conditions or safety conditions may enter into the equation; and the President certainly would want to call to his advice and counsel the authority that we propose to set up.

It does not provide that the authority shall make the negotiation.

Mr. WHITE. No; but it provides that only such agreements shall be negotiated as may be satisfactory to the authority and to the President. In other words, if the President alone is satisfied, still the agreement may not be made.

Mr. McCARRAN. I have a very profound respect for the Senator's opinion. Would the Senator be entirely content if the expression "authority" were stricken out?

Mr. WHITE. Except that I do not believe that the paragraph adds a single thing to the powers which are inherent in the Chief Executive. As a matter of fact, not a line of this is necessary. I object to it on that ground. But I object to it even more strongly because I think there is an effort to circumscribe and limit the negotiating power of the President by providing that only such agreements shall be negotiated as may be satisfactory to the authority and to the President.

Mr. McCARRAN. Naturally the authority, having control of American-flag lines flying abroad, would want to be consulted, and naturally the President would want to consult the authority, because the authority would be responsible for the American-flag lines flying abroad.

For instance, there is the line that flies today from the Pacific coast to the Orient. That line would fly by authority and under the rules and regulations promulgated by the aeronautics authority. It touches a foreign country. It must have landing facilities in foreign countries.

Let us take, for instance, the Pan American Co., which flies down the east coast of South America and across South America, with landing facilities in South America, and then up the west coast of South America, and so on. They must negotiate through the State Department, and they have negotiated through the State Department, and the President is always interested in those negotiations. Would the Senator from Maine say that the authority which gave that line the right to fly out of this country, which it must have in

the first instance because otherwise it could not land in this country, should be eliminated? I cannot believe that.

Mr. WHITE. Mr. President, I should say without any hesitation that that air authority should have no right to limit the authority of the President of the United States in negotiating a foreign undertaking, and this language purports to give to the authority a right of concurrence with the President before one of these agreements can be concluded.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Maine [Mr. WHITE].

On a division, the amendment was agreed to.

Mr. TRUMAN. Mr. President, yesterday afternoon I sent to the desk an amendment which had been proposed by the Senator from Washington [Mr. SCHWELLENBACH]. I now desire to offer that amendment.

The PRESIDENT pro tempore. The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 6, line 1, it is proposed to strike out "transportation by an air carrier, including the use of any and all facilities and instrumentalities of shipment or carriage, irrespective of any contract, express or implied, for the use thereof, and any and all services in or in connection with such shipment or carriage in"; and on page 9, line 7, after the comma, to insert "including the use of any and all facilities of shipment or carriage, irrespective of any contract, express or implied, for the use thereof, and any and all service in or in connection with such shipment or carriage."

Mr. KING. Mr. President, I should like to have an explanation of that amendment. It seems to me it might be too restrictive of the authority of the agency which will be empowered to control the organization to be set up. There must be some latitude given to the organization to determine the rules and regulations, as to who will be the beneficiaries and who will have rights of way, to determine the character of cargo which may be carried, and so forth. It seems to me that may be too much of a limitation.

Mr. TRUMAN. Mr. President, the amendment is designed to correct a defect in the definition of aircraft transportation.

Mr. McCARRAN. Mr. President, the amendment the Senator sent to the desk was an amendment following the word "aircraft" in line 7, page 9. I do not think that is the one the Senator intended to send up.

Mr. TRUMAN. No; the amendment I sent to the desk last night, the amendment of the Senator from Washington, related to page 6.

The PRESIDENT pro tempore. The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 6, line 1, beginning with the word "transportation", it is proposed to strike out down to and including the word "in" in line 6, and on page 9, line 7, after the comma, it is proposed to insert "including the use of any and all facilities of shipment or carriage, irrespective of any contract, express or implied, for the use thereof, and any and all service in or in connection with such shipment or carriage."

The PRESIDING OFFICER (Mr. POPE in the chair). The question is on the first amendment offered.

Mr. TRUMAN. Mr. President, the first amendment is an amendment designed to correct a defect in the definition of "air transportation."

Mr. McCARRAN. I have no objection.

Mr. AUSTIN. Mr. President, before the amendment is agreed to, I should like to have an explanation.

Mr. TRUMAN. As I have stated, the amendment is designed to correct a defect in the definition of "air transportation." As the definition now reads, "air transportation" is defined to mean transportation by air carrier, while the term "air carrier" is defined to mean any citizen of the United States who engages in air transportation. The use of the term "air transportation" in both definitions renders them meaningless. The amendment would not change the intended meaning of the definition, but would merely change the location of the phrase appearing in lines 2 to 6 of the definition.

Mr. AUSTIN. Mr. President, is the Senator from Missouri dealing with the amendment on page 6?

Mr. TRUMAN. Yes.

Mr. AUSTIN. I have no objection to that.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TRUMAN. Mr. President, I now offer the second amendment.

The PRESIDENT pro tempore. The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 9, line 7, after the comma, it is proposed to insert the following: "including the use of any and all facilities of shipment or carriage, irrespective of any contract, express or implied, for the use thereof, and any and all service in or in connection with such shipment or carriage."

Mr. McCARRAN. Mr. President, I hope this amendment will not prevail. I understand the Senator is not insisting on it.

Mr. TRUMAN. I am not insisting on the amendment.

The PRESIDING OFFICER. Does the Senator from Missouri withdraw the amendment?

Mr. TRUMAN. I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn. The bill is still before the Senate, open to further amendment.

Mr. TRUMAN. Mr. President, I desire to offer an amendment, which I send to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. On page 15, line 9, it is proposed to strike out "Any member of the Authority may be removed by the President for inefficiency, neglect of duty, or malfeasance in office."

Mr. TRUMAN. Mr. President, I do not think that sentence is necessary in the setting up of the commission. The President ought to have the right to remove the members of the commission, just as he will have the right to appoint them.

Mr. MINTON. Mr. President, will the Senator yield?

Mr. TRUMAN. I yield.

Mr. MINTON. The authority, as it is set up in the bill, is to exercise executive functions, very largely.

Mr. TRUMAN. The Senator is correct.

Mr. MINTON. Most of its employees, I understand, would be in the executive branch of the Government.

Mr. TRUMAN. That is correct.

Mr. MINTON. Therefore, being in the executive department, the President should have the right to remove them.

Mr. McCARRAN. Mr. President, I hope the amendment will not prevail. It brings up a time-old proposition.

There is one outstanding philosophy in this proposed legislation, and if that is lost, it will be well to set the legislation aside indefinitely. That outstanding thing is that this authority, if set up, shall be an independent authority; that it shall be appointed by the President and confirmed by the Senate but shall be independent.

If the amendment of the Senator from Missouri shall prevail, then every time the authority renders a decision they will have to say, "Will this be favorably looked upon by the Executive?" regardless of whether he be a Republican or a Democrat. We are not dealing with anything personal or with anything pertaining to the present administration; we are dealing with a principle, we are dealing with a philosophy, we are dealing with a theory, that the proposed authority shall be an independent body.

The great outstanding thing in connection with the Interstate Commerce Commission is that it is independent; that it can render its decisions without being called to task or account by any authority. That has resulted in greater progress along the line of its work than in the case of any other governmental agency about which I know anything. The Interstate Commerce Commission may be criticized, it may have been overburdened, it may have been given too

much work; but, by and large, the service rendered by that Commission has been and will be outstanding not only in this country but in the transportation history of the world.

Now we are about to enter into a new phase of transportation, and the authority controlling that branch of transportation should be just as independent and just as reliably informed as to its rights as the commission or authority having charge of any other line of transportation.

Shall air transportation be controlled by a political agency or shall it be controlled by an independent agency? That is the question to be determined by the Senate. Must the commission say to itself every time it renders an opinion, "How will this opinion be taken at the While House? Are we to be removed because we render this opinion? Are we likely to be dismissed because we decide a certain case in a certain way?"

Mr. President, if that is to be the situation of the commission, then it were better that it never came into existence. If the President of the United States—I do not care what the color of his political complexion may be—is to control the independent agencies of this country, then it would be a thousand times better if the independent agencies never came into existence. When I say that I say it with the highest regard for whomsoever may be the Executive, because the Executive will not want to be and should not be burdened with the decisions of independent commissions. He has burdens enough. As a matter of fact, no human mind could carry such burdens. So he must of necessity delegate the consideration of decisions rendered by independent commissions to someone who will be subordinate to him. Therefore, we will not have the President of the United States governing these independent commissions, but we will have some delegated and appointed individual examining and, perhaps, questioning the decisions of commissions which should be entirely independent.

Mr. President, that is the whole crux of the situation. If I am to lose on this proposition, then my whole theory of legislation as written in the bill from a study of some 5 years must fall. If the proposed amendment shall prevail, then the whole situation falls, because there is no independence in the commission if the President may remove the commissioners at will. Their decisions then must be O. K.'d by the President, and if they are not O. K.'d by the President, then the commission goes out of existence.

Let us have independence in commissions if we mean to establish independence, and if we do not mean to establish independence, let us do the other thing, and do it manfully and bravely, and say that the whole authority shall rest in the President of the United States, and then hold him responsible. Let us do one thing or the other. Let us not blow hot and cold. Let us not put the President of the United States in such a position that he may say, "The commission did this, the commission did that," and then the public may say, "But you had the authority to remove the commission. Why not remove it now?" That would be putting the President in a position which he should not occupy. The Presidency of the United States is too great, too important, too far-reaching an office from a national standpoint to have the President dilly-dally with the decisions of every commission. He should have independent commissions upon whose actions he could rely, and should be able to rely, and in whom he should have confidence. He should not be in such a position that the public could justifiably say to him, "You are responsible for that decision, and unless you remove the commission which made the decision the responsibility will be on your shoulders."

Mr. President, let us put independence where independence belongs. Let us relieve the President of the United States of some of the burdens which we have been trying to impose upon him. Let us give him a chance to be President. Let us give him a chance to deal with the big things of national importance rather than those things with respect to which he should rely and be able to rely on his appointed agents.

Mr. AUSTIN. Mr. President, I have been encouraged throughout the study of the air-mail legislation, since the cancelation of the air-mail contracts and the enactment of the terrible act of 1934, by the sturdy position taken by the author of the bill now before us. He has adhered firmly to the fundamental idea of independence of the body that should have authority over this brand new and very great and important activity of society. The position taken by the Senator from Nevada really has helped me to go along with some features of the proposed law with respect to which otherwise I should have found difficulty in joining him.

Mr. President, I believe the Senator from Nevada is perfectly accurate when he makes the claim that if we give the President of the United States the power to hire and fire, we give him the power to be tyrannical; we give him the power to do things that frighten the people of this country terribly; we give him the power to repeat what was done by the present incumbent of the office when he discharged Commissioner Humphrey with the mere fiat, "Your mind does not go along with my mind."

Mr. MINTON. Mr. President, will the Senator yield?

Mr. AUSTIN. I shall yield in a moment. When a President of the United States does an act like that it creates the impression among the people of this country that we are on an evil road toward an evil end, particularly in a time when we see republics and free governments crumbling all around us.

I now yield to the Senator from Indiana.

Mr. MINTON. Has not the President of the United States ever since our Government was established had the right of his own free will to remove an executive officer, or one who exercises executive functions?

Mr. AUSTIN. Mr. President, suppose we admit that to be true.

Mr. MINTON. It is true, is it not?

Mr. AUSTIN. I do not say that is true.

Mr. MINTON. Is that not the doctrine of the Myers case?

Mr. AUSTIN. That is not the doctrine of the Humphrey case.

Mr. MINTON. The doctrine of the Humphrey case is that an official cannot be removed if he is exercising legislative and quasi-judicial powers, but the doctrine of the Myers case is that if he exercises executive functions the President can remove him, and has had that power since the Government was established, and no one has felt that the Government was going to the dogs because Presidents have exercised that power since the Government was established.

Mr. AUSTIN. Mr. President, the learned Senator from Indiana is assuming that the proposed authority will deal only with executive power and only with administration, whereas on the other hand the authority represents the Congress of the United States and will exercise a legislative function and a quasi-judicial function whenever it has to find a fact which is the basis of price, cost, and conditions of service of pilots, and all the other elements involved in the exercise of control over the safety features of air transportation.

Mr. MINTON. Mr. President, will the Senator yield?

Mr. AUSTIN. Yes; I yield.

Mr. MINTON. The Senator from Vermont is a very able and distinguished lawyer. I want to ask him if he thinks that the Congress can tie up into an act executive and legislative functions and put the administration of those functions in the hands of some officer exercising both executive and legislative functions, and then provide that the President of the United States cannot remove him.

Mr. AUSTIN. Mr. President, the question is quite irrelevant. The measure before us proposes that the President may remove an officer; that is, it recognizes the power to remove, but it preserves the right of the citizen to a hearing. It preserves that protection of freedom which is contained in the provision for notice and a cause shown. It

preserves that security to our institutions which is afforded when we say we will not allow the President of the United States so far to control an independent commission such as the one under consideration that he can remove its members from office at any time their minds do not go along with his mind.

We provide in the measure before us that any member of the authority may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. That does not mean that the President of the United States can send a letter down to another "Mr. Humphrey" and say, "Because your mind does not go along with my mind you are through." That means that whoever is to be removed under that authority must have a hearing, and cause must be shown, and an appeal permitted to him to a court of justice if an arbitrary or a tyrannical act is done, as occurred in the Humphrey case.

Mr. MINTON. Mr. President, will the Senator yield again?

Mr. AUSTIN. I yield.

Mr. MINTON. I want to ask the Senator again if the President of the United States has not from the very beginning of our Government had the right to remove any officer who exercised executive functions if his mind did not go along with that of the President, or if the President did not like the color of his hair, or for any reason that the President wanted to assign? In other words, all Presidents have had absolute power to remove any officer who was exercising executive functions.

Mr. AUSTIN. Mr. President, I cannot answer that in the affirmative, because I do not think the question is complete. If the Senator means executive functions only, I might answer his question. But if the officer exercises legislative functions also and quasi-judicial functions also, then the President never had the power and ought never to have it in the future, and that is one reason why I oppose striking out the words in question. In fact, that is the very nub of the whole proposition.

Mr. MINTON. Mr. President, will the Senator yield?

Mr. AUSTIN. I yield.

Mr. MINTON. As I understand, the Senator admits that if an officer exercises executive functions alone and exclusively, the President has always had the right to remove him for any cause he saw fit to assign.

Mr. AUSTIN. I did not quite say that. I think he has the power to do that.

Mr. MINTON. He has the power to do it. Does the Senator say that Congress may give an officer executive functions, legislative functions, and quasi-judicial functions, and so mix up his functions that the President may not remove him, even though the officer exercises executive functions?

Mr. AUSTIN. Yes, indeed.

Mr. MINTON. I disagree with the Senator.

Mr. AUSTIN. The Senator from Vermont understands the situation of the Federal Trade Commission and the Interstate Commerce Commission to be as described.

Mr. MINTON. The Federal Trade Commission exercises no executive function. All the Supreme Court held in the Humphrey case was that it exercised legislative and quasi-judicial functions, and for that reason the Executive had no power to remove Mr. Humphrey, because he was not performing an executive function. But if Mr. Humphrey had been exercising executive functions, the President of the United States, being alone charged under the Constitution with the faithful execution of the laws, could have removed him, as he can remove, for any reason sufficient unto himself, anybody who exercises executive functions.

Mr. AUSTIN. Whenever a commission, such as the Federal Trade Commission or the Interstate Commerce Commission, carries out an Executive order, it is exercising an executive function; and it frequently has to do so. I am talking about the power. I am not talking about a specific case. I am talking about a principle which ought to govern the Congress in its conduct. We ought not to do anything more at this session of Congress that will say to the American people, "We are giving to the President of the United States additional and new power." We are fed up with such power. The people of America are fearful of further grants of power to the President; and we should not make them. As a matter of prudence and wisdom, having regard to a long future as well as our relatively short past of 150 years, whenever an authority such as is proposed is given to one man, it should be hedged around by such safeguards that the authority cannot be used tyrannically and cannot be used arbitrarily, just because a person's mind does not run along with that one man's mind.

Mr. TRUMAN. Mr. President, will the Senator yield?

Mr. AUSTIN. I yield.

Mr. TRUMAN. Control of the very functions which are set up in the bill is now being exercised by the Post Office Department and the Commerce Department. I do not think anybody has been unduly injured. We are trying to better the situation by creating the authority, and we desire to leave this sentence out of the bill so that the President will have authority to remove the executive officer of the authority, if he so desires.

Mr. AUSTIN. Mr. President, my understanding of the effect of the amendment is that, if the words in question were stricken out, arbitrary authority would be given to the President of the United States over all the activities of the independent authority, through the power to discharge any man whose mind did not go along with his.

Mr. President, it has been my purpose to support this bill. I think I have thus far supported it to the limit of my ability. However, I pledge my word not to vote for it if such power is given to the President of the United States; for I am firmly convinced that it is wrong for the Congress to add to the Executive authority to that extent.

Mr. McCARRAN. Mr. President, will the Senator yield?

Mr. AUSTIN. I yield.

Mr. McCARRAN. I will go further than the Senator has just indicated. I not only will not vote for the bill, if the proposed amendment remains in it, but I want my name stricken from the bill, and I shall stand on the floor of the Senate as long as I have strength to stand to defeat the bill, because the amendment destroys everything worth while in the bill. It destroys independence in American life. It destroys everything that is worth while in an independent agency. It does more than that. It places upon the shoulders of the Executive a burden he should not have to assume. It places upon his shoulders a burden under which bitter criticism may be hurled at him for something for which he is not responsible.

I ask Senators how would they like to have the Supreme Court of the United States removable at the will of the Executive, so that every time the Supreme Court of the United States rendered a decision which did not meet with the approval of popular clamor the people would say to the President, "Well, it is your province to remove them. Why don't you do it?" In that case we should have an Executive with a burden which no human being could possibly assume.

There is only one way to look at the bill. The proposed authority must be independent. The authority must have rights. The aeronautical authority must have real authority, and it must relieve an overburdened Executive of the burdens which are now imposed upon his shoulders.

Some of those who seek to give added authority to the President forget that, after all, the President is a human being. They forget that, being a human being, he is possessed of human limitations. Because such persons desire to build up something in the President which the President himself would not crave, they would have him assume burdens far beyond human possibilities.

If the amendment prevails, the bill should fail. It is my bill. I am the author of it. I have given study to it for 4½ years. The amendment is the crux of the situation. It is the turning point. Let there be no mistake about that. There is only one answer: Either the amendment must be defeated or the bill must go down. If my name goes down

with it, well and good. A policy is involved. A philosophy is involved. Something worth fighting for is involved. Something bigger than any personal achievement is at stake. National development, from the standpoint of industry, from the standpoint of commerce, and from the standpoint of national defense, is at stake.

Mr. President, let us go into the phase of national defense which is involved. The bill concerns a phase of national defense because every air line which traverses America today is an agency for national defense, and the more it is developed the more national defense is developed.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. McCARRAN. I yield.

Mr. CONNALLY. If the language referred to is stricken out, as I understand, it is the contention of the Senator that the President then could remove at pleasure?

Mr. McCARRAN. At pleasure, for inefficiency; but who is to be the judge of inefficiency?

Mr. CONNALLY. I understand that point. However, the Senator wants to strike out the language on page 15, line 9.

Mr. McCARRAN. Beginning with the words "Any member" and extending to the end of the sentence.

Mr. CONNALLY. The proposal is to strike out the rest of that paragraph?

Mr. McCARRAN. That is the motion of the Senator from Missouri.

Mr. CONNALLY. Suppose that language is retained. How could the members be removed, except by impeachment?

Mr. McCARRAN. They could be removed for inefficiency, neglect of duty, or malfeasance in office.

Mr. CONNALLY. I understand that; but who would do it except Congress? Suppose we found that one of the members of the authority was, in fact, guilty of some misconduct?

Mr. McCARRAN. The President could remove him.

Mr. CONNALLY. Who would decide the question?

Mr. McCARRAN. The President would decide it.

Mr. CONNALLY. The President would decide it, would he not?

Mr. McCARRAN. He would decide it, but he would not decide the question of inefficiency.

Mr. CONNALLY. Does not the fact that the President has the power of appointment raise the question as to whether he ought not also to be allowed to determine the inefficiency, if, after he appointed a man, he found he was not qualified, and to remove him?

Mr. McCARRAN. If the Senator's theory is——

Mr. CONNALLY. I have been trying to find out the theory of the provision. I have been absent, and I am not at all familiar with the bill.

Mr. McCARRAN. If the Senator's theory is as he has stated it in the question, then the power to appoint is the power to remove.

Mr. CONNALLY. Is not that proposition fundamental? Is it not true that unless we limit the power of the President, as is said to be done by the bill, he has the absolute right to remove?

Mr. McCARRAN. No.

Mr. CONNALLY. Unless the power is limited?

Mr. McCARRAN. The power is limited by the language of the bill.

Mr. CONNALLY. Exactly. As I say, unless the power of the President is limited, he could remove a member of the authority without any question.

Mr. KING. Mr. President, will the Senator yield?

Mr. CONNALLY. I suggest to the Senator that if he wishes to accomplish that purpose, I do not think the present language does it. The language ought to be changed so that any member of the authority may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office. Otherwise the power would be merely cumulative, because it would only add to the authority which the President already has.

Mr. McCARRAN. I realize that, and I realized it when I drafted the provision; but I did not want to go even that far. I wanted to give the President everything the President should have. However, the amendment proposes to impose on the President a burden which he should not be called upon to bear.

Mr. KING. Mr. President, will the Senator yield?

Mr. McCARRAN. I yield.

Mr. KING. I think perhaps the philosophy expressed in the Humphrey case clearly limits the authority of the President. The position provided for in the bill is not purely executive. It is administrative. The duties of the authority proposed to be set up are quasi-judicial, and largely administrative, as are the duties of the Federal Trade Commission. The President does not have authority to remove members of the Federal Trade Commission at his own will and pleasure.

Mr. CONNALLY. He would have had that power under the decision in the Humphrey case but for the fact that Congress, in creating the position, stipulated that the officer might be removed only for certain causes. The Constitution provides that the Congress, in the creation of offices, may provide that certain inferior officers may be appointed by either the President or the heads of departments or other agencies of the Government. The holding in the Myers case with regard to postmasters was that the President might remove a postmaster at will. The reason why that case is distinguishable from the Humphrey case is that in the act creating the Federal Trade Commission, Congress limited the power of the President to remove; and the Supreme Court held that that limitation must be observed. I am quite sympathetic with the theory that the President ought to be able to remove subordinate officials.

Mr. MINTON. Mr. President, will the Senator yield?

Mr. CONNALLY. I yield.

Mr. MINTON. In the Humphrey case did it not also appear that the Court held that the President could not remove Humphrey because he exercised quasi-legislative and quasi-judicial functions but did not exercise executive functions? Quasi-judicial functions are not executive functions, as the Senator has pointed out.

Mr. CONNALLY. Yes; that was an additional consideration.

Mr. McCARRAN. Mr. President——

Mr. McGILL. Mr. President, will the Senator yield for a moment?

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from Kansas?

Mr. McCARRAN. I yield.

Mr. McGILL. I ask the Senator to yield in order that I may submit an amendment. I hope the Senator from Nevada may accept it. It is with reference to a matter on page 34, concerning which reference was made this morning.

The PRESIDING OFFICER. The Senator will have to withhold the amendment for the time being, because there is an amendment now pending.

Mr. McCARRAN. There is an amendment now pending. I will say to the Senator from Kansas that when this amendment is disposed of there will either be a bill or not be a bill. I do not know which way it is going.

Mr. McGILL. My amendment relates to an amendment on page 34 of the bill, which appears on page 6767 of the RECORD of yesterday.

Mr. PITTMAN. Mr. President, may I ask what the language is that is proposed to be stricken out by the pending amendment?

The PRESIDING OFFICER. The clerk will state the amendment offered by the Senator from Missouri [Mr. TRUMAN].

The CHIEF CLERK. In line 10, on page 15, it is proposed to strike out:

> Any member of the Authority may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

Mr. McCARRAN. Mr. President——

The PRESIDING OFFICER. The Senator from Nevada.

Mr. MINTON. Mr. President——

Mr. McCARRAN. I yield.

Mr. MINTON. No; I should like to make some remarks in my own time.

Mr. McCARRAN. Mr. President, one remark made by the able junior Senator from Indiana [Mr. MINTON] gives sanction to what I am about to say. I am not inclined at any time to quote unless the quotation is official; but I think there is sufficient record here to warrant me in the opening statement I made to the Senate and in what I am now about to say, that during the month of January the President did me the honor to call me to the White House for the purpose of working out a bill of this kind. I do not believe I would willfully transgress the rules of propriety, but the President does not want to assume responsibilities which do not belong to the Executive branch of the Government. I say that following my visit to the President on this very subject. Any authority set up under this bill, as was set up under the Interstate Commerce Commission Act, must of necessity exercise three functions which may be so blended that only a very discerning mind may distinguish between them. The authority may be called upon to exercise legislative, executive, and judicial functions.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. McCARRAN. I yield.

Mr. CONNALLY. I wonder in what way the authority would be able to legislate; and I should like to know where in this bill is the provision under which the authority would exercise legislative authority. If it can be found, I want to vote against the bill.

Mr. McCARRAN. Would the Senator deny that the Interstate Commerce Commission acts——

Mr. CONNALLY. I am speaking of the pending bill. If this bill confers any power in any board to perform legislative functions, I am against the bill.

Mr. McCARRAN. Would the Senator deny that the Interstate Commerce Commission acts in the exercise of legislative functions?

Mr. CONNALLY. It acts in that way only because Congress has delegated certain powers to it.

Mr. McCARRAN. That is correct. It exercises them by reason of promulgation of rules and regulations. Is not that so?

Mr. CONNALLY. I do not quite agree with that. I grant that the duties the Interstate Commerce Commission performs are quasi-judicial and largely administrative, but I do not regard that they perform any legislative functions.

Mr. McCARRAN. Very well. When we delegate powers to any commission, do we not delegate the powers to them to promulgate rules and regulations?

Mr. CONNALLY. We frequently do; yes.

Mr. McCARRAN. That is correct. I do not always go along with the idea, but they are law-creating because their rules and regulations are the things that impinge upon the individual. It does not make any difference what the fundamental law is; there is creative law, and the agency creates the rules that touch the individuals, and that is legislation.

Mr. CONNALLY. There are, no doubt, abuses, but the theory is that the rules and regulations shall be in subordination to and in harmony with the legislative powers which Congress expresses.

Mr. McCARRAN. That is correct.

Mr. CONNALLY. They are not new powers.

Mr. McCARRAN. Will not the Senator agree that they are not at all reviewable by Congress?

Mr. CONNALLY. Oh, Congress may repeal them anytime it desires to do so.

Mr. McCARRAN. When do they come before Congress?

Mr. CONNALLY. Whenever any Senator gets up on his hind legs and proposes that it be done.

Mr. McCARRAN. But Senators do not have hind legs.

Mr. CONNALLY. The Senator from Nevada has hind legs. He is up here now wanting to change the law.

Mr. McCARRAN. The Senator from Texas is on his front legs; that is the trouble.

Mr. CONNALLY. I am sorry but I am not flying; I am walking.

Mr. McCARRAN. I did not mean to say that the Senator was standing on his head.

Mr. PITTMAN. Mr. President——

The PRESIDING OFFICER. Does the junior Senator from Nevada yield to his colleague?

Mr. McCARRAN. I yield.

Mr. PITTMAN. Mr. President, I have no desire to intrude into the present discussion. As I understand, the amendment of the junior Senator from Missouri is to strike out the language that was read. I am opposed to the amendment, and I think that the language contained in the bill is correct.

There is just one other subject, if my colleague will pardon me for a second, concerning which I desire to say a few words. I was occupying the chair at the time the amendment of the Senator from Maine [Mr. WHITE] was acted upon which was to strike out section 802. I think that amendment was carried by one vote, as I recall, on a division, and, in view of the circumstance, I am afraid the junior Senator from Nevada in conference probably will overlook the amendment. I really think it is a very important matter. Section 802 deals entirely with treaties. It provides:

> SEC. 802. Whenever the Authority and the Secretary of State shall determine, restricting their determination to the aspects of the public interest involved in the discharge of their respective functions, that the public interest requires agreements to be negotiated with foreign governments—

"Agreements to be negotiated with foreign governments." I hold and always have held that every agreement negotiated between our Government and a foreign government imposing any obligation upon our Government is a treaty, and no matter whether it be called an agreement or a contract or a convention, it is governed by the Constitution. This provision says that—

> Whenever the Authority and the Secretary of State shall determine * * * that the public interest requires agreements to be negotiated with foreign governments.

Under the Constitution I do not know of anyone who can negotiate a treaty with a foreign government except the President of the United States. But under this section even the President of the United States is denied that privilege. He may think the public interest requires the negotiation of an agreement with regard to aeronautics, but this bill provides he cannot do so unless both the authority and the Secretary of State determine that it is in the public interest. It goes on further. Even if the authority and the Secretary of State determine that it is in the public interest that a treaty be negotiated between our Government and a foreign government with regard to aviation, still a treaty cannot be made unless it is approved by the Secretary of State and by the authority. Either the Secretary of State or the authority has a veto power upon a treaty that is found to be necessary in the public interest. It is a drift into which the legislative branch has been moving. This is not the first time that the Congress has attempted to designate specific agencies to make treaties and specific agencies to approve treaties.

The Constitution vests in the President of the United States exclusive power to negotiate treaties; it vests in the Senate of the United States the exclusive power to advise and consent to treaties, and requires a two-thirds vote of those present in order to ratify treaties. The whole drift of it is away from our constitutional provision.

I realize that now companies in this country have entered into contracts for privileges with regard to landing in South American countries. They had to do it, and they could do it, I will say to the junior Senator from Nevada, legally without any assistance from our Government. Such a matter does not require any agreement; it does not require a treaty. Yet today the companies that are now flying from the United States into South America are subject to the laws of the United States the moment they come into the United States,

and they are subject to the laws of South American countries the moment they reach those countries. Consequently this provision does not deal with anything except a situation concerning which there might be necessity for a treaty between two governments.

We are already anticipating such a situation. Just a few days ago the Foreign Relations Committee reported a bill, and it was passed by both Houses, appropriating some $15,000 to send our delegates to the Aeronautical Legal Commission which attempts to give an authority in this country the treaties which all governments may enter into. If those conventions are ever entered into, they will be restrictive on every country which is a party to them. That is the way we are proceeding.

At the present time there are no treaties on the subject. At the present time an aeronautical company which is engaged in commerce or transportation in two countries has to rely on the law of each country. I think the form of law which attempts to give an authority in this country the right to determine when a treaty is necessary, and authority to veto a treaty when it is found unnecessary, is drifting entirely away from our Constitution and is very unfortunate.

It is absolutely impossible to give this authority jurisdiction in a foreign country. There is no power by which we can do it. The minute an airplane engaged in commerce in two countries comes into this country it is subject to the laws of our country. The minute it gets into a foreign country it is subject to the laws of that country. We may limit the scope of laws in each country by a treaty so as to provide greater protection, and I will say that the Congress is now moving to that end, because for 2 or 3 years we have had meetings of the legal experts from a number of nations trying to work out a convention which to a certain extent will protect air navigation when it enters various countries. So I do not think the junior Senator from Nevada should entirely eliminate that provision when it gets into conference. I think he should give it very careful study.

That is all I wish to say.

Mr. McCARRAN. Mr. President, will my colleague yield before he leaves the floor?

Mr. PITTMAN. Yes.

Mr. McCARRAN. As I understand, up to date, there is a decided distinction between the freedom of the seas and the freedom of the air. In other words, we used to regard, and we have regarded, and we now regard, the rule of freedom of the seas; but the air above and over the territorial boundaries of the United States, for instance, the continental boundaries of the United States, is the property and under the dominance of the United States.

Mr. PITTMAN. It always has been, under the common law.

Mr. McCARRAN. That is correct.

Mr. PITTMAN. Therefore, we have to have treaties, unless we yield to whatever other nations may give us.

Mr. McCARRAN. That is correct.

Mr. PITTMAN. But I think my colleague, in taking the matter to conference, should have a very careful study made of that section. I have in mind what the Senator has in mind, and it may be accomplished in some way.

Mr. McCARRAN. Mr. President, I desire to express my sincere gratitude to my colleague the senior Senator from Nevada [Mr. PITTMAN]. His experience extending over some 26 years in this body has been a very fine thing for me to follow with regard to foreign relations, and I am glad to have his advice and counsel along this line. I desire to say to my colleague that when this measure goes to conference, as I hope it will, the matter he suggests will be held in consideration by me.

Mr. President, returning now to the question at hand, the able Senator from Texas [Mr. CONNALLY]—I am sorry he is not here at the moment—questioned my expression when I said that commissions exercise legislative, judicial, and executive functions. Every time we create a commission, we authorize it to promulgate rules and regulations for its own functioning, in order that the substantive law which we enact may be carried forward through the commission which we create to carry it forward. Therefore we, in turn, give the commission the power to create rules and regulations. What are those rules and regulations? They are legislative in nature. That cannot be avoided, I am sorry to say, because, to my mind, that is one of the great obstacles and one of the great objections to bureaucratic government. We are drifting into bureaucratic government fast and furiously, I am sorry to say; but, while we are drifting into it, it is within the power of Congress so far as possible to limit the authority of the agency which we set up to create rules which impinge upon the rights and liberties of the individual. Every rule is an impingement upon the rights and liberties of the individual.

Mr. AUSTIN. Mr. President, will the Senator yield?

Mr. McCARRAN. I yield.

Mr. AUSTIN. Before the Senator passes from the subject of the legislative function of the authority, I should like to ask him if he does not regard this language of the bill, found on page 101, beginning in line 6, as a definite and express description of a legislative function?—

> Purpose of investigations: The board shall exercise its powers and duties in respect of investigations, and reports of accidents, for the primary purpose of ascertaining what, if any, changes in laws, rules, regulations, standards, facilities, or operating practices can or should be made to reduce or eliminate the possibility of, or recurrence of similar, accidents in air transportation.

Does not the Senator believe that is an expression of a legislative function?

Mr. McCARRAN. Unquestionably; because the rules and regulations then in force and effect might be found inapt, or not sufficient to meet the conditions which were presented by the investigation of the particular accident that might have occurred; and so new rules and regulations, not coming from Congress but coming from the authority, would be promulgated, because Congress could not act sufficiently fast to promulgate the necessary rules and regulations.

We have been delegating authority to make rules and regulations ever since we created the first commission, ever since we created the Interstate Commerce Commission, ever since we created other commissions. We have been giving them power to promulgate rules and regulations. We must of necessity give them power to do so. If we do not, Congress is too slow to act for the relief of conditions which prevail with regard to the people. But when we do that we give to the commissions, as I have said, power to curb and impinge upon the liberty of the individual.

Let me suggest an illustration that is very homely, not perchance appropriate, but nevertheless something that may be fruitful of thought. During this administration Congress enacted what is known as the Taylor Grazing Act. I use that as an illustration because it touches me. It touches my people. That act gave to the Secretary of the Interior, having authority over the public lands of the country, power to promulgate rules and regulations as to how grazing should be conducted on the public domain, so that every man, whether he has one head or a thousand or five thousand head of cattle ranging on the public domain must today come under the rules and regulations promulgated by the Secretary of the Interior.

That is something which touches the individual. It touches his rights. It touches what he considers to be his liberty. So, illustrative as that may be of the whole subject, every time we create an agency, we must confer upon the agency the right to exercise human judgment. If we do not, we had better set up a dummy agent. We must confer upon it the right to exercise human judgment, human discretion, human discernment. When we do that, shall we say that when the agency exercises the right of human judgment, as, for instance, in the illustration pointed out by the Senator from Vermont with regard to the right of this commission to investigate a calamity or a crash, and to promulgate new rules in keeping with what it may find—the President of the United States may say to it, "No; your judgment with regard

to that crash was wrong, and unless you reverse it I will discharge you"?

That is what this amendment means. If the amendment should prevail, there would not be an independent man or an independent judgment or an independent individuality on this commission within 30 days from the time it was appointed, because we are all human, and men do not like to lose their places. Men do not like to lose their jobs; and a $12,000 job is not, in the common vernacular, anything to be "sneezed at." In this matter, Members of the Senate, something more than property is involved, something more than principle; and principle is one of the highest things in the world. In this matter, human life is involved under the most difficult and sometimes uncertain conditions—human life in the air. The lonely pilot who steers a commercial ship through the mists and through the darkness may have the responsibility of from 12 to 15 or perhaps as high as 80 passengers, every one of them human beings, resting upon his shoulders; so human life in the extreme is involved, if you please.

I say, therefore, that there should be independence in this commission. There should be independence in this commission, in keeping with the independence which distinguishes a court of last resort anywhere, so that it may decide between right and wrong and decide fearlessly, in keeping with the rules of law, in keeping with equity, in keeping with the principles involved, without the fear of being discharged. That is all that is involved in the amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS of Utah in the chair). The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Connally	Johnson, Calif.	Overton
Andrews	Dieterich	Johnson, Colo.	Pittman
Ashurst	Donahey	King	Pope
Austin	Duffy	La Follette	Reynolds
Bailey	Ellender	Lewis	Russell
Bankhead	Frazier	Logan	Schwartz
Barkley	George	Lonergan	Sheppard
Bilbo	Gerry	Lundeen	Shipstead
Bone	Gibson	McAdoo	Smathers
Borah	Gillette	McCarran	Thomas, Okla.
Bridges	Glass	McGill	Thomas, Utah
Brown, Mich.	Green	McKellar	Townsend
Bulkley	Hale	McNary	Truman
Bulow	Harrison	Miller	Tydings
Burke	Hatch	Milton	Vandenberg
Byrd	Hayden	Minton	Van Nuys
Byrnes	Herring	Murray	Wagner
Capper	Hill	Neely	Walsh
Caraway	Hitchcock	Norris	Wheeler
Chavez	Holt	O'Mahoney	White

The PRESIDING OFFICER. Eighty Senators having answered to their names, a quorum is present.

Mr. MINTON. Mr. President, the bill we are now considering in its title recites that it is a bill "to create a Civil Aeronautics Authority, and to promote the development and safety and provide for the regulation of civil aeronautics." The amendment now under consideration is an amendment offered by the Senator from Missouri [Mr. TRUMAN] which would strike out the sentence beginning in line 9 on page 15.

The effect of striking out that part of the bill would, as has been stated, give the President of the United States, who is to appoint the officers of the authority to be set up, the right to remove them, and remove them at will, for the reason that they are executive officers, exercising executive functions.

There are approximately 2,600 employees now engaged in the Department of Commerce regulating civil aeronautics in the United States. Two thousand two hundred of them are engaged in performing executive work; the other 400 are engaged in performing quasi-legislative work. In other words, the bulk of the work being done now in the matter of aeronautics is being done by the executive department of the Government of the United States. The pending bill proposes to create an authority to regulate this activity. The officers of the authority are to be appointed by the President of the United States and, if the pending amendment should be agreed to, they would be removable by the President of the United States.

Mr. President, when may the President of the United States remove at will an officer appointed by him? In the Myers case, as stated in the opinion handed down by Chief Justice Taft, which fills almost a complete volume of the reports of the Supreme Court of the United States, the great Chief Justice pointed out that the President of the United States having under the Constitution of the United States, the executive duty resting upon him and upon him alone, faithfully to execute the laws of the United States, is responsible for the activities of each and every officer of the executive department, and that he and he alone has the right to remove the officers of the executive department for any reason he sees fit to assign. That is to say, if there is any executive officer in the whole Government of the United States whom the President of the United States wants to remove for the reason that his mind does not go along with that of the President, as the Senator from Vermont has put it, or for any other reason the President chooses to assign, the President may remove that officer. That is the doctrine of the Myers case.

In a later case, a case recently decided by the Supreme Court, known as the Humphrey case, the President of the United States sought to remove from office Mr. Humphrey, a member of the Federal Trade Commission; but the Supreme Court of the United States denied the President of the United States the right to remove Mr. Humphrey, the Court holding that the Federal Trade Commission exercises quasi-legislative and quasi-judicial functions, and exercises no executive authority, and that therefore the President of the United States had no right to remove Mr. Humphrey, because he was not an executive officer, and was exercising no power of the Executive, but was exercising only that power which Congress had delegated of its own power for him to exercise, and to exercise partially in quasi-judicial manner. For that reason, the Court held, the President of the United States could not remove Mr. Humphrey.

Under the pending bill the officers provided for will be largely exercising executive functions, in the regulation and control of the aeronautics of this country. In the exercise of executive functions the President of the United States has the responsibility.

No case has ever been decided in which it was held that the Congress of the United States can wrap up the executive functions with the legislative and judicial functions in such a manner as to deprive the President of the United States of his right to control the executive functions of the Government. The Attorneys General of the United States in their opinions have repeatedly advised the President of the United States that that could not be done, and that the President of the United States should protect the executive power from encroachment in that regard by the legislative authority.

All the amendment of the Senator from Missouri seeks to do is to protect the executive power of the United States in the exercise of a function which the President has exercised ever since the Government was founded.

The Myers case promulgated the doctrine that confirmed the power in the hands of the President of the United States to remove executive officers as having resided in the hands of the President of the United States from the day the Government was founded. So the pending proposal provides no new authority, no new law, and does not add to the power of the President of the United States. It is simply a recognition in the hands of the President of the United States of the power that was placed there by the Constitution in the very beginning, charging the President of the United States with the faithful execution of the law. That is all it does. It does not provide a new authority. It is not a delegation of our authority, and it is not the delegation of anyone else's authority. It is simply the recognition of the authority in the President of the United States to do what the Supreme Court of the United States says he has had the right to do ever since the Government was founded. All that is sought to be

done by the amendment is to allow the President of the United States to remove an officer who is performing an executive function.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. MINTON. I yield.

Mr. BARKLEY. I have been unavoidably detained from the Senate Chamber on other business, and have not kept in touch with the present discussion. I understand that the amendment offered by the Senator from Missouri is to strike out the language which proposes that the President of the United States may remove the members of the board for inefficiency, malfeasance in office—and what else?

Mr. MINTON. Neglect of duty.

Mr. BARKLEY. Of course, it is entirely conceivable under some circumstances that a man ought not to continue longer in an executive position, when it would be difficult to prove that he was guilty of malfeasance in office, or neglect of duty, or that he was inefficient. Sometimes a man may be intellectually most efficient, and yet be undesirable as an executive officer. Malfeasance in office, of course, is a criminal offense which is sometimes difficult to prove, and the burden of proof is always on whoever makes the charge.

A man may be most undesirable as a member of a board or a commission; he may be unwilling to cooperate with his colleagues or his associates; he may be out of sympathy with the policy of the Executive with respect to his administration, and yet he would not be guilty of malfeasance or of neglect. A man may with all honesty disagree entirely with the policy of his colleagues or the board itself, or the administration, and may yet not be guilty of technical neglect of duty. He may not be guilty of malfeasance in office. He may not be guilty of inefficiency. He may be most efficient, but he may be most efficient in the wrong direction and in the wrong way. So if the language remains in the bill as it now is, it seems to me it would result in a restriction of the power of the President.

I can well understand how any man may honestly argue in favor of such a restriction. Yet, in view of the fact that during all the history of this country the power of removal has never been abused by any President, so far as I know, I am unable to see that there is any danger in giving to the President the power to control the executive Departments which operate under him as a part of the executive branch of the Government.

If I have not stated clearly the distinction between the present language in the bill and that which would be in the bill if the amendment of the Senator from Missouri were agreed to, I should like to be corrected.

What I have just said expresses the feeling I have had with reference to these matters long before the bill came up for consideration. I had the same feeling about the matter when the Myers case was decided. I think it is to the credit of the Chief Executives of the Nation, regardless of party, that they have never abused that power, and there have been, as I recall, no more than two cases which have gone to the Supreme Court with respect to the exercise of that power, one the Myers case, which dealt with a postmastership, and the other the Humphrey case, which involved the power of the President to remove the Commissioner of the Federal Trade Commission, which, under the decision of the Supreme Court, was limited because of the particular kind of duty he performed—the quasi-judicial character of his service as a member of the Federal Trade Commission.

I am not uneasy, so far as I am personally concerned, about what will or will not happen under any language, whether the present language is left in the bill or whether it is stricken out; but I think that any President who is responsible for the executive Departments and the conduct of their officers ought not to be unnecessarily handicapped and hampered in the event there is an undesirable, uncooperative, antagonistic member of some board or commission who refuses, or for any reason, either honestly or dishonestly, fails to carry out the obvious purposes, not only of Congress but of the Executive himself, in the administration of law.

Mr. LEWIS. Mr. President, if I may be pardoned I should like to propound an interrogatory to the Senator from Kentucky.

Mr. MINTON. I yield.

Mr. LEWIS. Is it the belief of the Senator from Kentucky that the recital in the bill of three reasons authorizing removal by the President is an exclusion of any other reason, and therefore is equivalent to limiting the President to removal only upon the grounds specifically expressed in the bill?

Mr. BARKLEY. If it were not an exclusion I do not know what reason there would be for putting it in the bill, because if in addition to the three reasons recited, the President may remove a man for any other reason which seems sufficient to him, then the language does not mean anything. If he cannot do that, then, of course, the language is restrictive, and would limit the President to removal for the three causes set out.

Mr. MINTON. Mr. President, if the Congress had the power to make such a provision, which I deny, it would result in the exclusion of any other ground for removal, because the inclusion of one ground would mean the exclusion of all others.

Mr. BARKLEY. If the Congress has the power to limit the President in the matter of removal to the causes recited, or any other causes, then, of course, the causes recited in the bill would be exclusive of all others. If the Congress does not have the power to make such provision, of course, the language is a nullity at the very beginning; it does not amount to anything, and therefore is unnecessary. It would be a little inconsistent and incongruous to hold that Congress has the power to provide for removal for the causes set forth, or any other specific causes, and that yet, in spite of the fact that the causes for removal are named in the measure, the President could go ahead anyhow and exercise his wide executive power to remove a man from office for any other reason not named in the statute.

Mr. ADAMS. Mr. President, will the Senator yield?

Mr. MINTON. I yield.

Mr. ADAMS. I wish to inquire of the Senator from Indiana whether my somewhat remote recollection of the Myers case is correct. My understanding of the Myers case is that it held that if the appointee exercised an executive function, then by virtue of the provision of the Constitution vesting executive powers in the President, the power of removal was an inseparable incident of the power of appointment, and that Congress could not fix any limitation, or any term, or any condition upon the right of removal, but that the removal could be made without notice, and without cause. That is my recollection of the Myers case.

Mr. MINTON. The Senator is correct.

Mr. ADAMS. Consequently if the appointees under consideration come under the Myers case, we cannot restrict the powers of the President, however much we might wish to do so, because we do not have that authority.

I also wish to inquire whether or not the bill vests in the commission certain legislative powers, for instance, the power to make rates, and if so, whether or not that would take the appointees outside the Myers case and bring them within the Humphrey case, in which event it would be necessary to specify the grounds for removal?

Mr. MINTON. I think clearly it does not. Everyone will admit that the Secretary of Agriculture is an executive officer. The Department of Agriculture is created by the Congress of the United States. The administrative officer of that Department is the Secretary of Agriculture. Yet under the Department of Agriculture comes the Stockyards and Packers Act. The Secretary is charged with the execution of that act, and under that act he exercises quasi-judicial and quasi-legislative functions.

Does anyone contend for a minute that because the Secretary of Agriculture exercises quasi-judicial and quasi-legislative functions, the President of the United States could

not remove the Secretary of Agriculture at will? Of course, the President could do it. The Congress of the United States does not have power to tie to the executive functions of the President of the United States legislative functions to be exercised by that executive officer and thereby destroy the purely executive powers given by the Constitution of the United States to the President of the United States. That is the position I take in reference to the question that was asked by the able Senator from Colorado. The power does not lie in Congress so to tie up the executive power of the President of the United States with the legislative and judicial functions as to defeat the President's constitutional power to see that the laws are faithfully executed.

Mr. BARKLEY. Mr. President, will the Senator yield further?

Mr. MINTON. I yield to the Senator from Kentucky.

Mr. BARKLEY. I grant the legitimacy of the argument based upon a distinction between the so-called judicial and legislative powers and the executive power. The line of demarcation is frequently very vague. No straight line can be drawn between two poles so that we may say that all on one side is executive and all on the other is legislative. The Constitution gives to Congress the power to regulate commerce, under which all such commissions have been created, including the Interstate Commerce Commission, the Federal Trade Commission, the Communications Commission, and the authority proposed to be set up under the provisions of the bill. If it be contended that such agencies are more agencies of Congress than of the Executive, it might with equal force be contended that the same thing is true of the Post Office Department, because the Constitution confers upon Congress the power to establish post offices and post roads.

To that extent every postmaster in the United States and every postal inspector is in some degree the agent of Congress in carrying out the constitutional authority conferred upon Congress in the establishment of post offices and post roads; all of which makes it rather difficult to draw a fine-spun distinction between the things which are wholly and exclusively executive and those which are wholly and exclusively legislative.

One thing is certain, and that is that the power to appoint is an Executive power. It is not conferred by Congress. It cannot be conferred by Congress, because the Constitution itself confers upon the Chief Executive the power to make all appointments, subject, of course, to confirmation by the Senate of the United States, except in certain cases which may be excluded by legislation.

Mr. McCARRAN. I must take issue with the able leader in his statement that the Constitution gives the sole power of appointment to the Executive.

Mr. BARKLEY. I qualified that statement by saying that the power was subject to Senatorial confirmation.

Mr. McCARRAN. Not even to that extent.

Mr. BARKLEY. Of course, the language is, "by and with the advice and consent of the Senate." We know how the system works. The advice and consent of the Senate are never sought, and in the very nature of things cannot be sought, except by a selection and a nomination. The advice and consent of the Senate are asked by the President when he sends a nomination to the Senate; and, with the advice and consent of the Senate, the President then makes the appointment. There is no difference between the Senator from Nevada and me on that point.

Mr. McCARRAN. There is a vast difference; but I shall deal with it in my own time.

Mr. MINTON. Mr. President, the distinction between the legislative and executive power has been pointed out by the Supreme Court time and again. The Supreme Court has said that legislative power, as distinguished from executive power, is the authority to make laws, but not to enforce them or to appoint agents charged with the duty of enforcing them. The latter functions are executive. Such is the distinction between the legislative functions and the executive functions. As the bill creates an authority exercising executive functions, the President of the United States, being charged with the faithful execution of the laws, and being responsible for the conduct of the Authority, should have the right to remove members of the Authority.

Mr. AUSTIN. Mr. President, I wish to call attention particularly to the judicial power with which the authority is proposed to be invested, because I think that when once we recognize that judicial power is vested in the authority, the analogy to the Interstate Commerce Commission and the Federal Trade Commission is so strong that the history of legislation and of adjudication of that legislation ought to determine our judgment on the question.

In the first place, the powers and duties of the authority are stated in part in section 702 on page 99 of the bill. I shall not read all the language, but shall try to digest it.

The first power is to study safety.

The second power is to investigate accidents. The authority is empowered—

to make rules, regulations, and instructions, which shall be subject to approval by the Authority before they take effect—

Of course, that provision gives to the rules the effect of law—

governing notification and report of accidents involving aircraft.

There is much further detail about investigations of accidents.

The third power is the power to to investigate other safety matters. Those matters pertain to safety in air commerce and the prevention of accidents. The authority is authorized—

To make such recommendations concerning the disposition of such investigations or complaints as to it seems proper in the interest of safety, and such other recommendations as, in its opinion, will tend to promote safety in air commerce.

Let us turn to page 120. I do not propose to read or comment on all the judicial characteristics found in the bill. Section 1003, under the title "Power to take evidence," provides:

Any member or examiner of the Authority, when duly designated by the Authority for such purpose, may hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States designated by the Authority. In all cases heard by an examiner or a single member the Authority shall hear oral arguments on request of either party.

There is something characteristically like a lawsuit in the picture portrayed by that language.

Turning to page 124, on the subject of judicial functions, section 1004, under the title "Effective date of orders; emergency orders," provides:

Except as otherwise provided in this act, all orders, rules, and regulations of the Authority shall take effect within such reasonable time as the Authority may prescribe, and shall continue in force until its further order, rule, or regulation, or for a specified period of time, as shall be prescribed in the order, rule, or regulation.

Then there is a long proviso which I do not care to read.

On page 127, beginning in line 3, under the title "Compliance with order required," the provision is:

It shall be the duty of every person subject to this act, and to its agents and employees, to observe and comply with any order, rule, regulation, certificate, license, or requirement of the Authority under this act affecting such person so long as the same shall remain in effect.

Mr. President, is there anything more clear than that this language describes a judicial function? The provision is that when an order is made after hearing, presentation of evidence, and argument, it shall be obeyed by all persons whom it affects. Is not that a pretty clear description of the exercise of a judicial function?

Let us look at another section, and see if it does not sound very much like sections of other laws relating to independent bodies which exercise quasi-judicial functions. I refer to page 129, beginning in line 7:

(e) Findings of fact by Authority conclusive: The findings of facts by the Authority, if supported by substantial evidence, shall be conclusive. No objection to an order of the Authority shall be considered by the court unless such objection shall have been urged before the Authority or, if it was not so urged, unless there were reasonable grounds for failure to do so.

Mr. President, I do not care further to review the long bill on this point. It seems to me I have already called attention to enough features of the bill to show clearly that the authority, if appointed and confirmed by the Senate, will exercise judicial functions.

The Senator from Maine [Mr. WHITE] calls my attention to page 128, and therefore I read the following, beginning at line 25:

(d) Power of court: The court shall have jurisdiction to affirm, modify, or set aside the order complained of, in whole or in part, and, if need be, to order further proceedings by the Authority. Upon good cause shown, interlocutory relief may be granted by stay of the order or by such mandatory or other relief as may be appropriate: *Provided*, That no interlocutory relief may be granted except upon at least 5 days' notice to the Authority.

My remembrance is that the court mentioned here is the circuit court of appeals, and that the review is a review of the case upon the law, including the question of law which is always created when one party to a controversy charges that there was no substantial evidence to support the findings.

Mr. President, in my humble experience as a lawyer, I have never seen a statute which more clearly defined a judicial function than does this proposed statute; and, for my part, regardless of constitutional questions, considering only the policy involved, if we were not to regard the underlying principle but only were setting out upon a new policy, I would not favor this bill if this provision were stricken from it, because I think it bad policy to enable the President of the United States so far to throttle the independence of judgment of a judicial body as to be able to remove anyone who is regarded as not carrying out his view. That, of course, is the object of this amendment. The proposal is definitely for the purpose of crippling this authority to the extent that it must come under the dominion, the influence, and power of the Chief Executive.

Mr. CONNALLY. Mr. President, will the Senator yield for a question?

Mr. AUSTIN. I yield.

Mr. CONNALLY. Does the Senator from Vermont contend that we are giving judicial powers to this organization?

Mr. AUSTIN. Does the Senator say "contend"?

Mr. CONNALLY. Yes.

Mr. AUSTIN. The Senator from Vermont does so contend.

Mr. CONNALLY. The Senator from Vermont insists that the authority we are establishing will exercise judicial powers?

Mr. AUSTIN. Yes, definitely.

Mr. CONNALLY. Well, what about the Constitution, which says that judicial powers shall be vested in the courts?

Mr. AUSTIN. This is a court.

Mr. CONNALLY. This is a court?

Mr. AUSTIN. This is an inferior tribunal. It will be observed that the Constitution also includes inferior tribunals to be erected by the Congress.

Mr. CONNALLY. It says "such inferior courts as the Congress may from time to time ordain and establish."

Mr. AUSTIN. It makes no difference whether we call it the Interstate Commerce Commission or the air transport authority, or what it may be called, if we invest it with the power to hear evidence and decide issues, we give it judicial power. If we give its voice, when spoken, authority which must be obeyed by the citizen or any party affected by it, we give it judicial power.

Mr. CONNALLY. I do not agree with the Senator when he says we are conferring any judicial power. Of course, the hearings are of the nature of hearings held by any officer, executive, or otherwise, who has to determine certain facts before he is authorized to act. A prosecuting officer has got to arrive at a conclusion that a man is guilty of an offense before he proceeds to present the case to the grand jury, but that is not judicial power.

Mr. AUSTIN. It is not limited to the exercise of that power alone. The power granted to the authority goes to the extent of issuing orders which shall be binding.

Mr. McCARRAN. Mr. President, I suggest to the Senator from Texas that any exercise of human judgment, from which there must be a determination, is a judicial power.

Mr. CONNALLY. I thank the Senator. I know he has been an eminent judge. The Senator from Texas has been a very humble practitioner in the inferior courts; but I do not at all agree to any such sweeping definition as that.

Mr. McCARRAN. The Senator will agree to it when he thinks it over.

Mr. CONNALLY. I congratulate the Senator from Nevada on his faith.

Mr. McCARRAN. I always have faith in the Senator from Texas.

Mr. CONNALLY. I thank the Senator for his compliment. I am indebted to him.

Mr. McCARRAN. His judgment in the past has been a great guidance to me, and I have great reliance on it.

Mr. LEWIS. Mr. President, will the Senator from Vermont allow me to ask him a question for information?

Mr. AUSTIN. Certainly.

Mr. LEWIS. If the Senator from Vermont is correct in assuming that these are judicial powers, does he consent that the three grounds mentioned in the bill on which it appears the President would have the right to remove a member of the authority, should remain in the bill, if the bill is a judicial arrangement or a judicial adjustment?

Mr. AUSTIN. I have thus far consented to that idea.

Mr. LEWIS. If it is a measure which my able friend from Vermont considers creates a judicial tribunal, does he feel that there should be a privilege then in the President of removing any member of such judicial tribunal upon the three grounds designated by the bill that may exist and should exist as against a judge?

Mr. AUSTIN. The proposed air authority is analogous to the Interstate Commerce Commission and the Federal Trade Commission, which we recognize as exercising judicial powers. We call them quasi-judicial bodies. We say they exercise quasi-judicial powers. Probably, to be more precise, we should say of this authority, should it be created, that it will exercise quasi-judicial powers. But that is the premise upon which I claim that, as a matter of policy, we should not give the President control over it, certainly not the absolute power to rob it of independence of judgment.

Mr. CONNALLY. Mr. President, let me ask the Senator from Vermont a question. He stated a moment ago, as I understood him, that this bill creates a court.

Mr. AUSTIN. If the Senator from Texas thinks there is any point to that question or statement, let me begin over. It is a court in a sense. When we set up an umpire and present to him evidence supporting opposing interests and opposing claims, and ask him to pass judgment, with the understanding that that judgment shall be binding upon the parties to the question, that is a court.

Mr. CONNALLY. I accept the Senator's definition, but I think all this debate is unnecessary, because the Constitution says that the judges of Federal courts shall hold office during good behavior.

Mr. AUSTIN. I think that is a quibble.

Mr. CONNALLY. And a judge may only be impeached by Congress. The Constitution also provides that judges shall hold office for life. So if this is a court, we are invading the executive power, instead of the Executive invading our power.

Mr. AUSTIN. We have never so regarded it. We have for a long time been acting with respect to that part of the judicial functions performed by independent commissions; and this is but another instance where Congress is setting up for its use another independent commission; and, so far as it does the things to which I have referred, the authority exercises a judicial function.

Mr. CONNALLY. I do not want to consume an undue amount of the time of the Senate, but, in support of the argument on this particular amendment, it has been stated here that the commission will perform judicial functions. That led me to inquire from the Senator from Vermont as to

whether or not this was a court. He said it was a court. I do not say it is a court; I say it is not a court; but the Senator from Vermont says it is a court, and that it is going to perform judicial functions and exercise judicial powers. If it is a court, then, it is a United States court; it is not somebody's else court; it is a United States court.

Mr. AUSTIN. Mr. President, will the Senator yield for a question?

Mr. CONNALLY. I yield.

Mr. AUSTIN. Does the Senator claim that there is anything in the Constitution——

Mr. CONNALLY. There is not much in it, but there is something left in it. [Laughter.]

Mr. AUSTIN. That invests a member of an independent commission with life tenure?

Mr. CONNALLY. Oh, no; not unless we give it to him. I do not agree that a commission is a court.

Mr. AUSTIN. We will not fight that out. It is a tribunal. I do not care whether or not it is called a court. When wording is used which grants it quasi-judicial functions, it is a court, in my opinion, but it is not a court such as is mentioned in the Constitution.

Mr. CONNALLY. According to the Senator from Vermont, it is not a court when it comes to the constitutional provision about life tenure, but it is a court when it comes to our saying that the President can or cannot remove its members. That is a very fine distinction, and I congratulate the Senator from Vermont. He is very astute; thoroughly learned in the law and capable of performing fine-spun mental distinctions.

Mr. BORAH. Mr. President, will the Senator yield?

Mr. CONNALLY. I yield.

Mr. BORAH. Does the Senator regard the Federal Trade Commission as a court?

Mr. CONNALLY. No; I do not.

Mr. BORAH. The Supreme Court held that it was exercising quasi-judicial powers.

Mr. CONNALLY. That may be. Quasi-judicial is not judicial; it is just quasi-judicial.

Mr. BORAH. Quasi-judicial is judicial, but it is quasi-judicial.

Mr. CONNALLY. Quasi is a modifying adjective. A court is a court; and a commission may perform incidentally some little so-called judicial powers, but that does not make it a court.

Mr. BORAH. No; it may not be a court, but the Federal Trade Commission was protected by the Supreme Court on the theory that it was performing judicial functions.

Mr. CONNALLY. I recall the Humphrey case and that point was raised there, but let me say to the Senator from Idaho that it has also been held that if an official is performing executive functions alone the Congress may not limit the power of the President to remove him.

Mr. BORAH. I agree with the Senator that if it is an executive power, we cannot control it. The President may exercise the right of removal if it is only an executive power that is conferred upon the authority. I have no doubt about that; but the only question would be whether or not there were any powers conferred upon the authority which were not executive powers.

Mr. CONNALLY. As I recall the Humphrey case, the Court held that the Federal Trade Commission performed both executive functions and quasi-judicial functions. Since they were both embodied in the same appointee, part of him could not be removed and part of him left.

Mr. BORAH. That is what Solomon thought.

Mr. CONNALLY. It was necessary either to remove all of him, or to leave all of him in the office. The result was that under that holding, the President's power of removal could not be interfered with if it was purely executive; but since there were added to Mr. Humphrey's executive duties quasi-judicial duties, and since in the creation of the office Congress had provided that the holder of the office could be removed only for those particular reasons, it was held that the President's power was limited to those reasons.

I think I correctly state the conclusions of the Court in that case.

Mr. MINTON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Texas yield to the Senator from Indiana?

Mr. CONNALLY. I do.

Mr. MINTON. I desire to ask the Senator if his recollection agrees with mine that when the Supreme Court has referred to the exercise of authority by the Interstate Commerce Commission and the Federal Trade Commission, it has always said "quasi-judicial functions," not "powers."

The Senator from Texas is right in saying that these commissions do not exercise judicial powers. They exercise, as administrative bodies, functions in the manner of a court; that is all. They do not exercise any judicial powers; and the Senator from Texas is quite right. If they were exercising judicial powers they would be courts, and they would have to have judges just like any other court.

Mr. CONNALLY. Certainly.

Every administrative agency of the Government has to determine questions of fact. We passed the other day a bill appropriating money to pay certain farm benefits to farmers. The Secretary of Agriculture has to find out, first, whether or not a man is a farmer; second, whether he complied with the law in 1937, whether he planted so many acres, how much he raised, and everything else. Is it a judicial function for the Secretary of Agriculture to have a hearing by some little administrator or clerk to determine whether or not a man is entitled to the payment of the farm benefit? Is that a judicial function? Is that judicial power? Of course not.

We enacted a law providing that policemen shall draw pay of certain grades after they have served so many years, and after they are so old. Somebody has to find out whether a policeman has served 5 years, or whether he is 60 years old, or what not, to tell how much pay he is to receive. Is that a judicial function? I do not think so; but it is a finding of fact. It is binding on the policeman until he gets some other sort of relief through the courts, but it is not a judicial function—not at all.

I do not agree with the eminent Senator from Vermont [Mr. AUSTIN] that this is a court. It is not a court at all. A man might be in contempt of the authority, but I do not think he would be hauled up very seriously in any court. I do not think it is a court, and I do not think the functions which have been set forth in the debate, at least, approach even judicial functions, and certainly not the exercise of judicial powers.

Mr. MINTON. Mr. President, may I say one further word?

Mr. CONNALLY. I yield to the Senator from Indiana.

Mr. MINTON. I ask the able Senator from Texas if it is not true that if one were to be punished for contempt he would have to be before a court, and if he neglected or failed or refused to observe the processes of this authority he could not be punished for contempt until a court had demanded that he do the particular thing in question?

Mr. CONNALLY. I think that is so.

So I am not greatly concerned about this amendment. I think we are debating something that is of very little importance; but I had to challenge the statement of my eminent friend from Vermont [Mr. AUSTIN], because his reputation as a lawyer is such that if the statement should go unchallenged on the floor of the Senate it probably would go out over the country as the judgment of the Senate, and I should not want that judgment to stand in this case.

Mr. McCARRAN. Mr. President, I exceedingly regret that the able Senator from Texas sees fit to resort to his usual tactics to make things seem small that in reality are great.

Mr. CONNALLY. Mr. President, if the Senator will yield——

Mr. McCARRAN. I do not yield to the Senator. I will yield to the Senator when I yield the floor.

Mr. CONNALLY. I am very sorry that I seem to have offended the Senator. I was unconscious of it.

Mr. McCARRAN. The Senator from Texas has not offended the Senator from Nevada. He has offended himself, because his ability transcends his own expression. The trouble with the Senator from Texas is that he gets so much fun out of facetiousness that he loses the grandeur of his own ability. If he would deal more with his own ability, and bring to the attention of the Senate more of that than his own facetiousness, he, as the great Senator from Texas, and the country, and the State he represents, would be better served.

Mr. President, the Senator from Texas uses an expression used by the Senator from Vermont [Mr. AUSTIN], that this is a court. No one seriously contends that we are setting up a court. We are setting up a body with judicial functions. We are setting up a body with a tripartite function, if you please—legislative, executive, and judicial. Every executive body, every body that we have ever set up, including the Interstate Commerce Commission—I take it that the Senator from Texas is not interested.

Mr. CONNALLY. Mr. President, if the Senator will yield, I beg the pardon of the Senator from Nevada. I was only responding to a question by another eminent Senator; and since the eminent Senator from Nevada would not permit me to ask him a question, I thought I might ask one of the Senator from Wisconsin [Mr. LA FOLLETTE].

Mr. McCARRAN. The Senator from Texas might get the answer from the Senator from Wisconsin, or from the new party represented by the Senator from Wisconsin.

Mr. President, whatever may be said of the rights of Congress, we have the right to determine upon what ground dismissal shall be based, providing we act within the functions prescribed and limited to the Congress by the organic law. We are setting up here a body that is legislative in part, judicial in part, and executive in part.

It is legislative in that it must of necessity prescribe rules and regulations for the exercise of the functions prescribed by the fundamental law which we enact. We do not go into details to the extent of prescribing rules and regulations. No Congress could do so. We abandoned that a long time ago. The Interstate Commerce Commission is an outstanding agency created by Congress with all of these functions—legislative, executive, and judicial—because every rule and regulation prescribed by the Interstate Commerce Commission is a legislative provision, for it touches the individual somewhere, and that which touches the individual is a legislative function. We may call it a rule or call it a regulation, but that is what it is.

Now as to the executive function: Under this bill, the authority which we create has the power to carry out and exercise and put into force and effect the rules and regulations which the authority creates. That is just as much an executive function as though the President of the United States were empowered to carry out the rules and regulations.

Now as to the judicial function: We cannot set up a function of this kind, we cannot set up an authority of this kind, when human life and human property are involved, without giving them the power to exercise the right of judgment; and when they exercise the right of judgment, that is a quasi-judicial function.

The Senator from Indiana [Mr. MINTON] draws a distinction between judicial powers and judicial functions. Every agency that we have set up by way of a commission exercises judicial functions.

Listen to the language of the bill, and listen to the motion to strike out:

The motion to strike out is to strike out, after the period in line 9 down to and including the word "office" in line 11, on page 15:

> Any member of the Authority may be removed by the President for inefficiency—

Who is to determine the inefficiency? Is a member inefficient because he does not want to "go along," because some rule has come down somewhere which has been passed to him by the secretary to the President that it would be well for him to decide a certain case in a certain way, otherwise he may be removed? If he does not decide the case in that way, is he guilty of inefficiency, so that the President will remove him?—

> neglect of duty, or malfeasance in office.

Of course the President may remove for malfeasance in office. The Congress may remove for malfeasance in office. But why should Congress resign its powers, and why should it set up an agency here, and why should the President be burdened with something with which the President was not intended to be burdened? As a matter of fact, Congress every day is trying to relieve the President of these duties and to give him an independent agency which will go forward and carry out the duties of this particular function in this particular industry.

Mr. AUSTIN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from Vermont?

Mr. McCARRAN. I yield.

Mr. AUSTIN. I used the term "inferior tribunal"; but, not carrying the Constitution or anything else photographically in my mind, I did not then remember that that term appears in an entirely different article from the article to which the Senator from Texas [Mr. CONNALLY] was referring.

He was referring to article III, which sets up the courts of the United States. This other section appears in the first article, which sets up the Congress and defines its powers. It is section 8 of article I of the Constitution, and it is clause 9 of that section, by which Congress is given the power "to constitute tribunals inferior to the Supreme Court." That was the way I remembered it before, and I am glad to find that that is the language of the Constitution.

Mr. BORAH. As I understand the parliamentary situation, the Senator from Missouri has moved to strike out the words "Any member of the Authority may be removed by the President for inefficiency, neglect of duty, or malfeasance in office," and the Senator from Nevada desires to retain that language in the bill. Am I correct in that construction of the parliamentary situation?

Mr. McCARRAN. The Senator is correct.

Mr. BORAH. As to the legal questions, I agree very largely with the Senator from Nevada. It seems to me that if the bill were enacted we would confer quasi-judicial power, it seems to me we would confer quasi-legislative power, and it seems to me we might bring ourselves within the decision in the Humphrey case. Aside from that question, it occurs to me that we are debating a provision of the bill which would not accomplish what is desired to be accomplished.

Mr. McCARRAN. Mr. President, will the Senator yield?

Mr. BORAH. I yield.

Mr. McCARRAN. The Senator propounded a question, and due to confusion about this provision, I wish to answer it further. The Senator from Missouri has moved to strike out the lines to which the Senator from Idaho has just referred, and as the author of the bill, I am endeavoring to have that language retained in the bill.

Mr. BORAH. I understand that to be the situation; therefore I am stating that to my mind the language itself would not protect the Commission.

If we provide that the President may remove a man for inefficiency, to my mind we give him unlimited power of removal. Under such authority he could have removed Mr. Humphrey, had he assigned that as a reason. The President may say that in his judgment the member of the authority is inefficient. The next cause for removal is neglect of duty. That is a specific reason, which he would have to assign, in my opinion. "Or malfeasance in office." That is sufficient.

When we come to inefficiency, to my mind we are asked to vote for a provision which would not effectuate what we desire to effectuate in the way of protecting the Commission.

I do not see anything to be gained by discussing the legal question if we are to leave the word "inefficiency" in the provision.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Missouri.

Mr. McCARRAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Byrnes	Herring	Minton
Andrews	Capper	Hill	Murray
Ashurst	Caraway	Hitchcock	Neely
Austin	Chavez	Holt	Norris
Bailey	Connally	Johnson, Colo.	Pope
Bankhead	Dieterich	King	Reynolds
Barkley	Duffy	La Follette	Schwartz
Bilbo	Ellender	Lewis	Sheppard
Bone	Frazier	Logan	Shipstead
Borah	George	Lonergan	Thomas, Okla.
Bridges	Gerry	Lundeen	Thomas, Utah
Brown, Mich.	Gibson	McAdoo	Truman
Bulkley	Gillette	McCarran	Tydings
Bulow	Green	McGill	Vandenberg
Burke	Hale	McKellar	Van Nuys
Byrd	Hayden	McNary	White

The PRESIDING OFFICER. Sixty-four Senators having answered to their names, a quorum is present.

Mr. SCHWARTZ. Mr. President, in view of the discussion which took place earlier in the day, and in view of the fact that the subject matter of the pending amendment has been covered thoroughly, I shall impose upon the Senate for only a short time.

We have heard suggested continually throughout the debate that we must guard the American people against the President. There seems to be an idea abroad, I think, that there is something about the Presidential office which invites suspicion. The distinguished Senator from Vermont [Mr. AUSTIN] says that the people are very much frightened; that they are afraid. I assume that they are shivering in their shoes. I wonder whether the distinguished Senator from Vermont has heard of the primary returns in Florida. The people in Florida do not seem to be so badly frightened.

The distinguished Senator from Nevada champions a particular provision in the bill. A motion to strike it out is now being considered. The Senator from Nevada assures us that if that provision is stricken from the bill he will withdraw his name from the bill. He pounded his desk and said that the bill shall not pass if one particular amendment with which he is not in accord is adopted by the Senate. If the amendment should be adopted, I hope the Senator from Nevada, after he has thought the matter over, will at least permit the Senate to function and possibly to pass the bill.

REMOVAL POWER IN MYERS CASE

Mr. President, two cases have been referred to several times today, the Myers case and the Humphrey case. In reading the Myers case, I noted what the Supreme Court of the United States said in connection with the question of whether or not the President represents the people of the United States. With the indulgence of the Senate, I shall read a paragraph from that case. The case is in Two Hundred and Seventy-second United States Reports, page 123. The Supreme Court, speaking through Chief Justice Taft, said:

> In the discussion in the First Congress fear was expressed that such a constitutional rule of construction as was involved in the passage of the bill would expose the country to tyranny through the abuse of the exercise of the power of removal by the President. Underlying such fears was the fundamental misconception that the President's attitude in his exercise of power is one of opposition to the people, while the Congress is their only defender in the Government, and such a misconception may be noted in the discussions had before this Court. This view was properly contested by Mr. Madison in the discussion (1 Annals of Congress, 461), by Mr. Hartley (1 Annals, 481), by Mr. Lawrence (1 Annals, 485), and by Mr. Scott (1 Annals, 533). The President is a representative of the people just as the Members of the Senate and the House are, and it may be at some times, on some subjects, that the President, elected by all the people, is rather more representative of them all than are the Members of either body of the Legislature, whose constituencies are local and not country-wide; and, as the President is elected for 4 years, with the mandate of the people to exercise his executive power under the Constitution, there would seem to be no reason for construing that instrument in such a way as to limit and hamper that power beyond the limitations of it, expressed or fairly implied.

Mr. President, as we all know, in the Myers case the Supreme Court decided that the President had the power to remove an executive officer, an officer charged with executive duties, without specifying any particular reasons. That was because that particular officer was the servant of the President in carrying out the duties devolving upon the President under the Constitution of the United States; and if that servant was derelict or did not see fit to follow the President, the President had the right to remove him.

EXECUTIVE POWERS NOT INVOLVED IN HUMPHREY CASE

The decision in the Humphrey case has been given as a reason for assuming that the President does not have the authority or should not have the authority to remove one of the members of the proposed aeronautics authority.

It was admitteed generally in the debate earlier today, and I do not think it can be denied, that a great many of the duties and powers conferred upon the proposed authority will be executive in character. They are those appertaining to the Executive under the Constitution. It is a question whether the executive power can be cut up and parceled out here and there in bills which also provide legislative and judicial powers, and whether by so doing it can be said that the President to that extent is deprived of the power to remove an executive officer or an officer charged with carrying out the duties which devolve upon the President of the United States.

Mr. President, the measure before us is wider and wholly different than that creating the Federal Trade Commission. I wish to call attention to what the Court said in reference to the Federal Trade Commission, and to show that executive powers were not involved in the Federal Trade Commission Act at all. In the Humphrey case (295 U. S., at p. 624), the Court said of the Federal Trade Commission:

> Its duties are neither political nor executive, but predominantly quasi judicial and quasi legislative.

At page 628 the Court said:

> The Federal Trade Commission is an administrative body created by Congress to carry into effect legislative policies embodied in the statute in accordance with the legislative standards therein prescribed, and to perform other specified duties as a legislative or as a judicial aid.

On page 630 of the same report the Court, citing with approval language of Justice Story in his work on the Constitution, says of the legislative, executive, and judicial branches of the Government:

> Neither of the departments in reference to each other ought to possess, directly or indirectly, an overruling influence in the administration of their respective powers.

Then the Court said:

> The power of removal here claimed for the President falls within this principle, since its coercive influence threatens the independence of a commission, which is not only wholly disconnected from the executive department, but which, as already fully appears, was created by Congress as a means of carrying into operation legislative and judicial powers, and as an agency of the legislative and judicial departments.

I think the distinction is quite clear that whatever the rule may be in the Humphrey case, it does not apply to the bill before the Senate.

Mr. President, I am not concerned about or fearful of either Presidential or congressional domination of the authority when it is created; but the argument seems to proceed on the basis that if there is domination, if there is control, it must necessarily come from the President, or possibly from Congress. I think I should point out, however, some of the vast powers which the authority will have.

AVIATION RESEARCH AND STUDY UNDER BILL

Mr. LUNDEEN. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. MURRAY in the chair). Does the Senator from Wyoming yield to the Senator from Minnesota?

Mr. SCHWARTZ. I yield.

Mr. LUNDEEN. I should like to ask the Senator which plan he thinks would allow the greatest freedom for research in aviation. I think there should be complete freedom for research in aviation, and for the men studying aviation, to the end that we may make the greatest possible progress.

I should like to see the act so framed that the men engaged in research may not be hampered or hamstrung in experimentation and in all manner of research. America now leads the world in aviation research. I hope the law may be such that there will be still greater progress in the field.

Mr. SCHWARTZ. Mr. President, I am not sure whether I can give the information requested by the Senator from Minnesota. The bill provides that the authority may designate and approve schools for aviation. Of course, the natural result of that provision would be that if anyone should see fit to have himself educated in the science and art of aviation in a school not approved by the authority, the authority probably would not look upon him with much favor when he came to apply for a position. Does that answer the Senator's question?

Mr. LUNDEEN. If the Senator will yield further, the danger is likely to be that we may put some members of the authority in a strait jacket or confine them to grooves in which they must proceed. They should be given complete scope for their activities, so that their minds will be free to cover the whole field of experimentation and research.

I hope nothing will enter into the bill which will prevent complete freedom in that respect.

Mr. SCHWARTZ. From my reading of the bill, I do not believe there is anything in it which would have the effect which the Senator fears.

In one respect I differ with the Senator from Nevada. I expect to vote for the bill whether this particular amendment is adopted or not, because the bill is bigger than the amendment.

PRESIDENT SHOULD HAVE POWER OF REMOVAL

I had started to say, Mr. President, when I was interrupted, that there is a possibility of domination and control, in the very nature of things, which will not find its seat either in the White House or in the Halls of Congress.

In the first place, aviation as it is now set up throughout the United States will be largely frozen by the provisions of the bill; possibly rightly so. It may be that the pioneer who goes out in advance of the law, or under the law, and carves himself a place, is entitled to be protected in that place.

Another important matter is the composition of the authority. We find that the authority is to be composed of five members, and that at least three of them must have been associated with air navigation for not less than 10 years past. The particular provision reads as follows:

Not less than three of the members of the Authority shall have been closely associated with aeronautics for a period of 10 years.

In the very nature of things, I think at least the majority of the authority will come from the industry as it is now established. I have no particular objection to that. However, in the further general development of aeronautics, in view of the possibilities for consolidation and monopoly, and in view of the vast powers conferred upon the authority I do not think we should seek to limit the power of the President of the United States to remove a member of the authority. The President should not be required to make a finding that a member is inefficient, or guilty of neglect of his duties, or of malfeasance in office. The President represents the public. The next President of the United States, regardless of his politics, will, after all, represent the public.

I think the President of the United States should have power to remove a member of the authority, because the bill includes executive powers. The President should have power to make a removal without assigning any cause. I think the President should have that power also because of the vast power conferred upon the authority. Otherwise, there is no possibility of removal.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Missouri [Mr. TRUMAN.]

Mr. VANDENBERG. On this question I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. LOGAN (when his name was called). I have a general pair with the senior Senator from Pennsylvania [Mr. DAVIS]. I transfer that pair to the Senator from Delaware [Mr. HUGHES], and will vote. I vote "yea."

The roll call was concluded.

Mr. FRAZIER. I announce that my colleague [Mr. NYE] is paired on this question with the senior Senator from New Mexico [Mr. HATCH]. If my colleague were present, he would vote "nay," and I understand the Senator from New Mexico, if present, would vote "yea."

Mr. SHIPSTEAD (after having voted in the negative). I have a general pair with the senior Senator from Virginia [Mr. GLASS]. I find he is not present. I, therefore, withdraw my vote.

Mr. McKELLAR. On this vote I have a pair with the senior Senator from Delaware [Mr. TOWNSEND], which I transfer to the Senator from Florida [Mr. PEPPER], and vote "yea."

Mr. McCARRAN (after having voted in the negative). I ask that my name be called again.

The legislative clerk called Mr. McCARRAN's name.

Mr. McCARRAN. I vote "yea."

Mr. BONE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BONE. Mr. President, it has been my desire on this vote to vote to retain in the bill the language which is involved in this amendment in lines 9, 10, and 11 on page 15.

The PRESIDING OFFICER. The parliamentarian informs the Chair that remarks are not now in order.

Mr. BONE. I was not in the Chamber when the vote was begun and I want to know what the effect of the yea-and-nay vote is? I was not sure how the question was posed.

The PRESIDING OFFICER. The effect of a "yea" vote is to strike out the language at the bottom of the paragraph on page 15, as follows:

Any member of the Authority may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

The amendment offered by the Senator from Missouri proposes to strike out that language.

Mr. SHIPSTEAD. I find I can transfer my pair to the junior Senator from Massachusetts [Mr. LODGE]. I make that transfer and vote. I vote "nay."

Mr. CONNALLY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CONNALLY. When does the roll call end? Has the result been announced?

The PRESIDING OFFICER. The result has not as yet been announced.

Mr. McCARRAN. Mr. President, I change my vote to "nay."

Mr. MINTON. I announce that the Senator from Delaware [Mr. HUGHES], the Senator from Oregon [Mr. REAMES], and the Senator from Washington [Mr. SCHWELLENBACH] are detained from the Senate because of illness.

The Senator from Oklahoma [Mr. LEE] is absent because of illness in his family.

The Senator from Tennessee [Mr. BERRY], the Senator from New Hampshire [Mr. BROWN], the Senator from Missouri [Mr. CLARK], the Senator from New York [Mr. COPELAND], the Senator from Ohio [Mr. DONAHEY], the Senator from Virginia [Mr. GLASS], the Senator from Pennsylvania [Mr. GUFFEY], the Senator from Connecticut [Mr. MALONEY], the Senator from Florida [Mr. PEPPER], the Senator from Maryland [Mr. RADCLIFFE], the Senator from South Carolina [Mr. SMITH], and the Senator from Montana [Mr. WHEELER] are detained on important public business.

The Senator from Mississippi [Mr. HARRISON], the Senator from New Mexico [Mr. HATCH], the Senator from Illinois [Mr. LEWIS], the Senator from Arkansas [Mr. MILLER], the Senator from Louisiana [Mr. OVERTON], the Senator from Nevada [Mr. PITTMAN], the Senator from Georgia [Mr. RUSSELL], the Senator from New York [Mr. WAGNER], and the

Senator from Massachusetts [Mr. WALSH] are detained in Government departments.

The Senator from Wyoming [Mr. O'MAHONEY] and the Senators from New Jersey [Mr. MILTON and Mr. SMATHERS] are unavoidably detained.

I further announce that the Senator from New Hampshire [Mr. BROWN] is paired with the Senator from Montana [Mr. WHEELER], the Senator from Missouri [Mr. CLARK] is paired with the Senator from Mississippi [Mr. HARRISON], the Senator from Washington [Mr. SCHWELLENBACH] is paired with the Senator from New York [Mr. COPELAND], the Senator from Pennsylvania [Mr. GUFFEY] is paired with the Senator from Connecticut [Mr. MALONEY], and the Senator from New Jersey [Mr. SMATHERS] is paired with the Senator from Nevada [Mr. PITTMAN]. I am advised that if present and voting, the Senator from New Hampshire, the Senator from Missouri, the Senator from Washington, the Senator from Pennsylvania, and the Senator from New Jersey would vote "yea," and that the Senator from Montana, the Senator from Mississippi, the Senator from New York, the Senator from Connecticut, and the Senator from Nevada would vote "nay."

Mr. AUSTIN. I am requested to announce that the Senator from Pennsylvania [Mr. DAVIS], if present, would vote "nay."

The PRESIDING OFFICER. On this question——

Mr. BYRNES. Mr. President, I ask for a recapitulation of the vote.

The PRESIDING OFFICER. The clerk will recapitulate the vote.

The legislative clerk recapitulated the vote.

Mr. BONE. I change my vote from "nay" to "yea."

Mr. McCARRAN. Mr. President——

Mr. KING. I change my vote from "nay" to "yea," for the purpose of moving a reconsideration.

Mr. McNARY. Mr. President, I inquire what was the request of the Senator from Utah?

The PRESIDING OFFICER. The Senator from Utah requested that he be permitted to change his vote from "nay" to "yea."

Mr. McNARY. May we have an announcement of the result now?

Mr. HAYDEN entered the Chamber and voted "yea."

Mr. ASHURST entered the Chamber and voted "yea."

The result was announced—yeas 34, nays 28, as follows:

YEAS—34

Andrews	Chavez	Hitchcock	Pope
Ashurst	Connally	Johnson, Colo.	Reynolds
Bankhead	Dieterich	King	Schwartz
Barkley	Duffy	Logan	Sheppard
Bilbo	Ellender	McAdoo	Thomas, Okla.
Bone	Green	McKellar	Thomas, Utah
Brown, Mich.	Hayden	Minton	Truman
Bulkley	Herring	Murray	
Byrnes	Hill	Neely	

NAYS—28

Adams	Byrd	Gillette	McGill
Austin	Capper	Hale	McNary
Bailey	Caraway	Holt	Shipstead
Borah	Frazier	La Follette	Tydings
Bridges	George	Lonergan	Vandenberg
Bulow	Gerry	Lundeen	Van Nuys
Burke	Gibson	McCarran	White

NOT VOTING—34

Berry	Hatch	Norris	Schwellenbach
Brown, N. H.	Hughes	Nye	Smathers
Clark	Johnson, Calif.	O'Mahoney	Smith
Copeland	Lee	Overton	Townsend
Davis	Lewis	Pepper	Wagner
Donahey	Lodge	Pittman	Walsh
Glass	Maloney	Radcliffe	Wheeler
Guffey	Miller	Reames	
Harrison	Milton	Russell	

So Mr. TRUMAN's amendment was agreed to.

Mr. KING. Mr. President, I desire to enter a motion to reconsider the vote by which the amendment of the Senator from Missouri was agreed to.

Mr. McKELLAR. I move to lay the motion on the table if it is made now.

Mr. KING. I withdraw my motion, and give notice that I shall move to reconsider.

Mr. McKELLAR. I move to reconsider the vote on the amendment of the Senator from Missouri

Mr. McNARY. Mr. President, a parliamentary inquiry. Am I to understand that the Senator from Tennessee has moved to reconsider?

The PRESIDING OFFICER. He has.

Mr. BARKLEY. I move to lay that motion on the table.

Mr. McCARRAN. Mr. President, that is a debatable question, is it not?

Mr. BARKLEY. A motion to lay on the table is not debatable.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kentucky [Mr. BARKLEY] to lay on the table the motion to reconsider made by the Senator from Tennessee [Mr. McKELLAR].

Mr. McCARRAN. On that motion I demand the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. LOGAN (when his name was called). Making the same announcement as on the previous roll call as to my pair with the Senator from Pennsylvania [Mr. DAVIS], I vote "yea."

Mr. FRAZIER (when Mr. NYE's name was called). My colleague [Mr. NYE] is absent. He is paired on this question with the senior Senator from New Mexico [Mr. HATCH]. If my colleague were present, he would vote "nay," and I understand that if the Senator from New Mexico were present he would vote "yea."

Mr. SHIPSTEAD (when his name was called). Making the same announcement as before as to my pair with the senior Senator from Virginia [Mr. GLASS], I make the same transfer to the junior Senator from Massachusetts [Mr. LODGE], and will vote. I vote "nay."

The roll call was concluded.

Mr. MINTON. I announce that the Senator from Delaware [Mr. HUGHES], the Senator from Oregon [Mr. REAMES], and the Senator from Washington [Mr. SCHWELLENBACH] are detained from the Senate because of illness.

The Senator from Oklahoma [Mr. LEE] is absent because of illness in his family.

The Senator from Tennessee [Mr. BERRY], the Senator from Michigan [Mr. BROWN], the Senator from New Hampshire [Mr. BROWN], the Senator from Missouri [Mr. CLARK], the Senator from New York [Mr. COPELAND], the Senator from Ohio [Mr. DONAHEY], the Senator from Virginia [Mr. GLASS], the Senator from Pennsylvania [Mr. GUFFEY], the Senator from Connecticut [Mr. MALONEY], the Senator from Florida [Mr. PEPPER], the Senator from Maryland [Mr. RADCLIFFE], the Senator from South Carolina [Mr. SMITH], and the Senator from Montana [Mr. WHEELER] are detained on important public business.

The Senator from Virginia [Mr. BYRD], the Senator from Illinois [Mr. DIETERICH], the Senator from Wisconsin [Mr. DUFFY], the Senator from Mississippi [Mr. HARRISON], the Senator from New Mexico [Mr. HATCH], the Senator from Arkansas [Mr. MILLER], the Senator from Louisiana [Mr. OVERTON], the Senator from Nevada [Mr. PITTMAN], the Senator from North Carolina [Mr. REYNOLDS], the Senator from Georgia [Mr. RUSSELL], the Senator from New York [Mr. WAGNER], and the Senator from Massachusetts [Mr. WALSH] are detained in Government departments.

The Senator from Wyoming [Mr. O'MAHONEY], and the Senators from New Jersey [Mr. MILTON and Mr. SMATHERS] are unavoidably detained.

I further announce that the Senator from New Hampshire [Mr. BROWN] is paired with the Senator from Montana [Mr. WHEELER]; the Senator from Missouri [Mr. CLARK] is paired with the Senator from Mississippi [Mr. HARRISON]; the Senator from Washington [Mr. SCHWELLENBACH] is paired with the Senator from New York [Mr. COPELAND]; the Senator from Pennsylvania [Mr. GUFFEY] is paired with the Senator from Connecticut [Mr. MALONEY]; and the Senator from New Jersey [Mr. SMATHERS] is paired with the Senator from Nevada [Mr. PITTMAN]. I am advised that if present and

voting, the Senator from New Hampshire, the Senator from Missouri, the Senator from Washington, the Senator from Pennsylvania, and the Senator from New Jersey would vote "yea"; and that the Senator from Montana, the Senator from Mississippi, the Senator from New York, the Senator from Connecticut, and the Senator from Nevada would vote "nay."

Mr. AUSTIN. The pair of the Senator from Pennsylvania [Mr. DAVIS] has been stated. I am advised that if present he would vote "nay."

The result was announced—yeas 32, nays 26, as follows:

YEAS—32

Andrews	Chavez	Johnson, Colo.	Neely
Ashurst	Connally	La Follette	Norris
Bankhead	Ellender	Lewis	Pope
Barkley	Green	Logan	Schwartz
Bilbo	Hayden	McAdoo	Sheppard
Bone	Herring	McKellar	Thomas, Okla.
Bulkley	Hill	Minton	Thomas, Utah
Byrnes	Hitchcock	Murray	Truman

NAYS—26

Adams	Capper	Hale	McNary
Austin	Caraway	Holt	Shipstead
Bailey	Frazier	King	Tydings
Borah	George	Lonergan	Van Nuys
Bridges	Gerry	Lundeen	White
Bulow	Gibson	McCarran	
Burke	Gillette	McGill	

NOT VOTING—38

Berry	Glass	Milton	Schwellenbach
Brown, Mich.	Guffey	Nye	Smathers
Brown, N. H.	Harrison	O'Mahoney	Smith
Byrd	Hatch	Overton	Townsend
Clark	Hughes	Pepper	Vandenberg
Copeland	Johnson, Calif.	Pittman	Wagner
Davis	Lee	Radcliffe	Walsh
Dieterich	Lodge	Reames	Wheeler
Donahey	Maloney	Reynolds	
Duffy	Miller	Russell	

So Mr. MCKELLAR's motion to reconsider was laid on the table.

Mr. BARKLEY. Mr. President, it is obvious that we cannot conclude the consideration of the pending bill this afternoon. Since it is not intended to have a session of the Senate tomorrow, it is my purpose, following a short executive session, to move a recess until Monday.

Mr. MCGILL. Mr. President, I enter a motion to reconsider the vote by which the Senate yesterday adopted the amendment to section 401 (e) appearing on page 6767 of the CONGRESSIONAL RECORD. I should like to discuss the matter today. I feel that we can dispose of it in just a moment or two.

Mr. MCCARRAN. Mr. President, I have a motion that I shall insist upon if the motion to recess does not prevail. I spoke to the leader about it a little while ago.

Mr. BARKLEY. I have no desire to interfere with that; but if this is a matter which can be disposed of without discussion, it seems to me it may as well be done now.

Mr. MCCARRAN. It cannot be disposed of without discussion.

Mr. MCGILL. Mr. President, a parliamentary inquiry: A motion having been entered to reconsider the vote by which the amendment to section 401 (e) was adopted, that motion may be made at the next session of the Senate, as I understand.

The PRESIDING OFFICER. The motion will be entered now, and may be taken up later on.

AUTHORITY TO REPORT BILL DURING RECESS

Mr. HAYDEN. Mr. President, the Committee on Post Offices and Post Roads has about concluded the consideration of House bill 10140, to amend the Federal Aid Road Act, approved July 11, 1916, as amended and supplemented, and for other purposes. I ask unanimous consent that the committee may be authorized to report the bill during the recess of the Senate, and that leave be granted for the submission of a minority report.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. BARKLEY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER (Mr. MURRAY in the chair) laid before the Senate messages from the President of the United States submitting several nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF A COMMITTEE

Mr. MCKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters, which were ordered to be placed on the Executive Calendar.

The PRESIDING OFFICER. If there be no further reports of committees, the clerk will state in their order the nominations on the calendar.

DIPLOMATIC AND FOREIGN SERVICE

The legislative clerk read the nomination of Joseph E. Davies, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belgium; and Envoy Extraordinary and Minister Plenipotentiary to Luxemburg.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. BARKLEY. I ask unanimous consent that the President be notified of the confirmation.

The PRESIDING OFFICER. Is there objection. The Chair hears none, and the President will be notified.

THE JUDICIARY

The legislative clerk read the nomination of Webster J. Oliver, of New York, to be Assistant Attorney General.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. BARKLEY. I ask unanimous consent that the nominations of postmasters be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations of postmasters are confirmed en bloc.

IN THE ARMY

Mr. SHEPPARD. Mr. President, from the Committee on Military Affairs, I report favorably certain routine nominations in the Army; and in order to save the expense of printing the nominations on the calendar, I ask that the nominations be confirmed en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the nominations are confirmed en bloc.

Mr. SHEPPARD. I ask that the President be notified of the confirmation of these nominations.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the President will be notified.

RECESS TO MONDAY

Mr. BARKLEY. I move that the Senate take a recess until 12 o'clock noon on Monday next.

The motion was agreed to; and (at 4 o'clock and 25 minutes p. m.) the Senate took a recess until Monday, May 16, 1938, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate May 13 (legislative day of April 20), 1938

UNDER SECRETARY OF THE INTERIOR

Harry Slattery, of South Carolina, to be Under Secretary of the Interior, vice Charles West.

WORKS PROGRESS ADMINISTRATION

W. G. Henderson, of Alabama, to be State administrator in the Works Progress Administration for Alabama, vice A. P. Morgan, Jr.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 13 (legislative day of April 20), 1938

DIPLOMATIC AND FOREIGN SERVICE

Joseph E. Davies to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belgium; and Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Luxemburg.

ASSISTANT ATTORNEY GENERAL

Webster J. Oliver to be Assistant Attorney General in charge of customs, New York City.

APPOINTMENTS IN THE REGULAR ARMY

Edwin Goodwin Austin to be first lieutenant, Dental Corps.

Thayne Foster McManis to be first lieutenant, Dental Corps.

William Preston Barnes, Jr., to be first lieutenant, Dental Corps.

Donald Malcolm O'Hara to be first lieutenant, Dental Corps.

Clare Thomas Budge to be first lieutenant, Dental Corps.

Willard LaGrand Nielsen to be first lieutenant, Dental Corps.

Robert Bruce Shira to be first lieutenant, Dental Corps.

APPOINTMENTS, BY TRANSFER, IN THE REGULAR ARMY

Maj. Everard Franklin Olsen to Adjutant General's Department.

Capt. Robert Parker Hollis to Quartermaster Corps.

First Lt. Charles Kissam Allen to Ordnance Department.

First Lt. Clyde Lucken Jones to Field Artillery.

PROMOTIONS IN THE REGULAR ARMY

Eli Elmer Bennett to be colonel, Coast Artillery Corps.

Stuart Chapin Godfrey to be colonel, Corps of Engineers.

Francis Clark Harrington to be colonel, Corps of Engineers.

Cleveland C. Gee to be colonel, Corps of Engineers.

John James Bohn to be lieutenant colonel, Cavalry.

Charles Belding Oldfield to be lieutenant colonel, Air Corps (temporary lieutenant colonel, Air Corps).

Carl J. Smith to be lieutenant colonel, Coast Artillery Corps.

John Lawrence Dunn to be lieutenant colonel, Infantry.

James Gregory Monihan to be lieutenant colonel, Cavalry.

Albert Crofut Donovan to be major, Field Artillery.

John Robert Tighe to be major, Quartermaster Corps.

John Carl Green to be major, Signal Corps.

Carl Franklin Greene to be major, Air Corps (temporary major, Air Corps).

Eugene Ferry Smith to be major, Judge Advocate General's Department.

Philip Doddridge to be major, Infantry.

Chilion Farrar Wheeler to be major, Air Corps (temporary major, Air Corps).

Robert Francis Gill to be major, Corps of Engineers.

William Henderson Minter to be captain, Corps of Engineers, with rank from June 5, 1938.

Elmer Perry Rose to be captain, Air Corps, with rank from June 6, 1938.

TO BE CAPTAINS WITH RANK FROM JUNE 7, 1938

John Adams Austin, Air Corps.
Ford J. Lauer, Air Corps.
Fay Oliver Dice, Air Corps.
Herbert Everett Rice, Air Corps.
Edward Harold Porter, Air Corps.
Joseph Hampton Atkinson, Air Corps.
Robert Leonard Schoenlein, Air Corps.
Frederick William Ott, Air Corps.
Wentworth Goss, Air Corps.
James Leslie Daniel, Jr., Air Corps.
Budd John Peaslee, Air Corps.
Vera H. Wiseman, Infantry.
John Franklin Egan, Air Corps.
Edgar Russell Todd, Air Corps.
Arthur LaSalle Smith, Air Corps.
Donald Dewey Arnold, Air Corps.
Clarence Thomas Mower, Air Corps.
Louie Percy Turner, Air Corps.

TO BE CAPTAINS WITH RANK FROM JUNE 9, 1938

James Laffeter Green, Corps of Engineers.
Thomas Alphonsus Lane, Corps of Engineers.
Theodore Scott Riggs, Cavalry.
Frederick Jensen Dau, Corps of Engineers.
William Tell Hefley, Air Corps.
Roland Clough Brown, Corps of Engineers.
Samuel Roberts Browning, Corps of Engineers.
Lyle Edward Seeman, Corps of Engineers.
Raphael Brill Ezekiel, Corps of Engineers.
William Dixon Smith, Corps of Engineers.
Thomas Fraley Van Natta, 3d, Cavalry.
Robert Scott Israel, Jr., Air Corps.
David Andrew Watt, Jr., Cavalry.
Donald Bertrand Smith, Air Corps.
Rudolph Ethelbert Smyser, Jr., Corps of Engineers.
Francis Howard Falkner, Corps of Engineers.
Alan Johnstone McCutchen, Corps of Engineers.
David William Heiman, Corps of Engineers.
Robert John Fleming, Jr., Corps of Engineers.
David Peter Laubach, Air Corps.
Benjamin Smith Shute, Corps of Engineers.
William Everett Potter, Corps of Engineers.
Edmund Koehler Daley, Corps of Engineers.
William Joseph Matteson, Corps of Engineers.
Webster Anderson, Infantry.
James Elbert Briggs, Air Corps.
Harry Cromartie Kirby, Infantry.
John Stewart Mills, Air Corps.
George Morris Cole, Field Artillery.
Duncan Sloan Somerville, Field Artillery.
David William Traub, Field Artillery.
Thomas Jennings Wells, Infantry.
George Warren Mundy, Air Corps.
Alfred Rockwood Maxwell, Air Corps.
Paul Harold Johnston, Air Corps.
William Ross Currie, Infantry.
Peter Duryea Calyer, Infantry.
Walter Godley Donald, Ordnance Department.
Roscoe Charles Wilson, Air Corps.
Walter Edwin Todd, Air Corps.
William Henry Hennig, Coast Artillery Corps.
Bryant LeMaire Boatner, Air Corps.
Nathan Bedford Forrest, Air Corps.
Edward Murphy Markham, Jr., Corps of Engineers.
Dwight Lewis Mulkey, Signal Corps.
Robert Frederick Tate, Air Corps.
Church Myall Matthews, Field Artillery.
Richard Jerome Handy, Field Artillery.
Samuel Robert Brentnall, Air Corps.
John Blanchard Grinstead, Infantry.
John Paul Breden, Cavalry.
Harvey Weston Wilkinson, Field Artillery.
Clayton John Mansfield, Cavalry.
Walter Edgerton Johns, Field Artillery.
Charles Franklin Born, Air Corps.
Daniel McCoy Wilson, Coast Artillery Corps.
Frank Fort Everest, Jr., Air Corps.
Frank Quincy Goodell, Field Artillery.
Garrison Barkley Coverdale, Field Artillery.
Leslie Haynes Wyman, Field Artillery.
John Jordan Morrow, Air Corps.
Mercer Christie Walter, Field Artillery.
Theodore John Dayharsh, Coast Artillery Corps.
Frank Jerdone Coleman, Air Corps.
Thomas Joseph Brennan, Jr., Cavalry.
Robert Loyal Easton, Air Corps.
Elmer Briant Thayer, Field Artillery.
James Stewart Neary, Ordnance Department.
John Benjamin Allen, Signal Corps.
Norris Brown Harbold, Air Corps.
John Cogswell Oakes, Field Artillery.

Leslie George Ross, Coast Artillery Corps.
George Raymond Bienfang, Air Corps.
Roger Woodhull Goldsmith, Field Artillery.
Russell Alger Wilson, Air Corps.
David Raymond Gibbs, Air Corps.
Charles Grant Goodrich, Air Corps.
Elmo Stewart Mathews, Signal Corps.
Paul Amos Gavan, Field Artillery.
Leroy Cullom Davis, Field Artillery.
Alvord Van Patten Anderson, Jr., Air Corps.
John Honeycutt Hinrichs, Ordnance Department.
Frederick Lewis Anderson, Jr., Air Corps, subject to examination required by law.
Marion George Pohl, Coast Artillery Corps.
John Archibald Sawyer, Coast Artillery Corps.
John Southworth Upham, Jr., Infantry.
Thayer Stevens Olds, Air Corps.
Samuel Leslie Myers, Cavalry.
Robert Albert Howard, Jr., Infantry.
Thomas Joseph Counihan, Field Artillery.
Ephraim Hester McLemore, Field Artillery.
James Easton Holley, Field Artillery.
Frederick G. Stritzinger, 4th, Field Artillery.
Robert Falligant Travis, Air Corps.
John Dabney Billingsley, Ordnance Department.
Thomas Joseph Cody, Signal Corps.
Robert George Butler, Jr., Ordnance Department.
Carl Herman Sturies, Signal Corps.
Joseph Anthony Michela, Cavalry.
John Bourke Daly, Field Artillery.
William Henry Tunner, Air Corps.
Robert Tryon Frederick, Coast Artillery Corps.
Ralph Edward Koon, Air Corps.
Verdi Beethoven Barnes, Field Artillery.
Howard Graham Bunker, Air Corps.
Edward Cassel Reber, Ordnance Department.
Henry Leo Flood, Infantry.
Allison Richard Hartman, Coast Artillery Corps.
Stuart Glover McLennan, Air Corps.
John Alexander Samford, Air Corps.
Douglas Glen Ludlam, Ordnance Department.
Legare Kilgore Tarrant, Coast Artillery Corps.
Harry Warren Halterman, Infantry.
William Mattingly Breckinridge, Infantry.
Arthur Richard Thomas, Coast Artillery Corps.
Madison Clinton Schepps, Infantry.
James Lowman Hathaway, Cavalry.
Douglas Crevier McNair, Field Artillery.
Fred Obediah Tally, Air Corps.
Walter Emerson Finnegan, Cavalry.
Russell Blair, Infantry.
Charles Ralph Pinkerton, Ordnance Department.
Edwin Augustus Cummings, Infantry.
Powhatan Moncure Morton, Cavalry.
Lionel Charles McGarr, Infantry.
James Melvin Lamont, Infantry.
Montgomery Breck Raymond, Coast Artillery Corps.
Noble James Wiley, Jr., Infantry.
Wilhelm Paul Johnson, Infantry.
Roger Maxwell Ramey, Air Corps.
Horace Lincoln Beall, Jr., Infantry.
Carl Ferdinand Fritzsche, Infantry.
John Peter Doidge, Infantry.
Forrest Gordon Allen, Air Corps.
Leigh Austin Fuller, Infantry.
John Thomas Murtha, Jr., Air Corps.
Ralph Joseph Butchers, Infantry.
John Severin Knudsen, Finance Department.
Samuel Egbert Anderson, Air Corps.
Everett Davenport Peddicord, Coast Artillery Corps.
James Gallagher Bain, Coast Artillery Corps.
August William Schermacher, Coast Artillery Corps.
Robert Franklin Tomlin, Coast Artillery Corps.
Louis Test Vickers, Coast Artillery Corps.
Joseph Arthur Bulger, Air Corps.
Kilbourne Johnston, Infantry.
Robert Bernard Beattie, Infantry.
Ralph Harold Sievers, Quartermaster Corps.
John Raymond Gilchrist, Finance Department.
Frank Rudolph Maerdian, Infantry.
George Francis Will, Infantry.
George Ferrow Smith, Air Corps.
Allen Wilson Reed, Air Corps.
Arthur William Meehan, Air Corps.
Frank Leonard Bock, Infantry.
Thomas Joseph Moran, Infantry.
James Elmer Totten, Infantry.
Truman Hempel Landon, Air Corps.
Charles Frank Howard, Infantry.
Hampden Eugene Montgomery, Infantry.
Elmer Wentworth Gude, Infantry.
Maurice Clinton Bisson, Air Corps.
Harry Edgar Wilson, Air Corps.
Charles Bowler King, Infantry.
Robert Williams Warren, Air Corps.
John Francis Wadman, Air Corps.
Delmar Taft Spivey, Air Corps.
Maury Spotswood Crallé, Infantry.
Ramon Antonio Nadal, Infantry.
Carroll Huston Prunty, Cavalry.
August Walter Kissner, Air Corps.
Edgar Elliott Enger, Infantry.
LaVerne George Saunders, Air Corps.
Tito George Moscatelli, Infantry.
Louis Russell Delmonico, Infantry.
George Henry Lawrence, Infantry.
George Clinton Willette, Infantry.
Francis Henry Boos, Infantry.
Gaulden McIntosh Watkins, Infantry.
Thomas Lilley Sherburne, Jr., Field Artillery.
John Francis Farra, Jr., Infantry.
Stanhope Brasfield Mason, Infantry.
Eugene Thomas Lewis, Infantry.
Allen Thayer, Infantry.
Emmett O'Donnel, Jr., Air Corps.
John Oliver Williams, Infantry.
Richard Wetherill, Jr., Infantry.
Donald Winston Titus, Air Corps.
Emmett Felix Yost, Air Corps.
Alfred Henry Parham, Infantry.
James William Lockett, Infantry.
Paul DeWitt Adams, Infantry.
Evan McLaren Houseman, Infantry.
Ralph Thomas Nelson, Infantry.
Robert Kinder Taylor, Air Corps.
James Morrow Ivy, Infantry.
William Grant Caldwell, Infantry.
William Thomas Moore, Infantry.
Paul Jones Mitchell, Infantry.
Alfred Benjamin Denniston, Quartermaster Corps.
James Wilson Brown, Jr., Air Corps.
William Columbus Sams, Air Corps.
Robert Harper Kelly, Air Corps.
Joseph Franklin Trent, Field Artillery.
Edward Felix Shepherd, Quartermaster Corps.
Andrew Thomas McNamara, Quartermaster Corps.
Thomas Mason Tarpley, Jr., Infantry.
James Francis Olive, Jr., Air Corps.
Edgar Alexander Sirmyer, Jr., Air Corps.
Thomas Webster Steed, Air Corps.
Paul Elliott MacLaughlin, Infantry.

TO BE FIRST LIEUTENANTS WITH RANK FROM JUNE 12, 1938

John Drake Bristor, Corps of Engineers.
Donald Abeel Phelan, Corps of Engineers.
Aaron Evan Harris, Corps of Engineers.
David Hamilton Gregg, Corps of Engineers.
Albert Joseph Shower, Air Corps.
David Campbell Wallace, Field Artillery.
Arthur Houston Frye, Jr., Corps of Engineers.

Herbert Caran Gee, Corps of Engineers.
Jack Wallis Hickman, Air Corps.
Donald Allen Elliget, Corps of Engineers.
Clyde Calhoun Zeigler, Corps of Engineers.
Leighton Ira Davis, Air Corps.
Charles Bernard Rynearson, Corps of Engineers.
Oliver Joseph Pickard, Corps of Engineers.
John Blackwell Davenport, Jr., Corps of Engineers.
Otto Jacob Rohde, Corps of Engineers.
John Somers Buist Dick, Corps of Engineers.
William Winston Lapsley, Corps of Engineers.
James DeVore Lang, Corps of Engineers.
George Rosse Smith, Air Corps.
Charles Jephthiah Jeffus, Corps of Engineers.
Henry Lewis Hille, Jr., Corps of Engineers.
John Lathrop Throckmorton, Infantry.
George Ruhlen, Field Artillery.
Cornelis DeWitt Willcox Lang, Field Artillery.
John Richards Parker, Corps of Engineers.
Clarence Carl Haug, Corps of Engineers.
John Sutton Growdon, Cavalry.
John Joseph Duffy, Field Artillery.
Warren Sylvester Everett, Corps of Engineers.
Carl Watkins Miller, Field Artillery.
Salvatore Andrew Armogida, Corps of Engineers.
William Paulding Grieves, Field Artillery.
Stanley Tage Birger Johnson, Corps of Engineers.
James Van Gorder Wilson, Air Corps.
Frank Alexander Osmanski, Field Artillery.
Bernard Sanders Waterman, Coast Artillery Corps.
Frederick Benjamin Hall, Jr., Corps of Engineers.
Langfitt Bowditch Wilby, Corps of Engineers.
John Dudley Cole, Jr., Corps of Engineers.
George Raymond Wilkins, Coast Artillery Corps.
Harry James Lewis, Signal Corps.
Elmer John Koehler, Field Artillery.
Charles Albert Symroski, Field Artillery.
Henry Chaffee Thayer, Infantry.
James Yeates Adams, Infantry.
Harry Jacob Lemley, Jr., Field Artillery.
Duncan Sinclair, Field Artillery.
John Kimball Brown, Jr., Air Corps.
Geoffrey Dixon Ellerson, Field Artillery.
Robert Morris Stillman, Air Corps.
Ray Allen Pillivant, Coast Artillery Corps.
William Henry Brearley, Jr., Infantry.
Ellery Willis Niles, Corps of Engineers.
George Blackburne, Field Artillery.
Robert Rigby Glass, Infantry.
George Stafford Eckhardt, Field Artillery.
Richard Elmer Ellsworth, Air Corps.
Alvin Dolliver Robbins, Coast Artillery Corps.
Sidney George Spring, Corps of Engineers.
Edward Stephen Bechtold, Field Artillery.
Seth Lathrop Weld, Jr., Coast Artillery Corps.
Harry John Harrison, Coast Artillery Corps.
Ivan Clare Rumsey, Corps of Engineers.
Raymond William Sumi, Air Corps.
Daniel John Murphy, Field Artillery.
Clarence Bidgood, Corps of Engineers.
Walter Albert Simpson, Signal Corps.
Edward Gray, Field Artillery.
Hugh McClellan Exton, Field Artillery.
Durward Ellsworth Breakefield, Field Artillery.
Sanford Welsh Horstman, Field Artillery.
Kelso Gordon Clow, Cavalry.
Harry Herndon Critz, Field Artillery.
Henry Porter van Ormer, Coast Artillery Corps.
Clifford Wellington Hildebrandt, Coast Artillery Corps.
Edward Kraus, Field Artillery.
Kenneth Irwin Curtis, Coast Artillery Corps.
Joseph Charles Moore, Coast Artillery Corps.
Earl Leo Barr, Field Artillery.
John Alexis Gloriod, Field Artillery.
Nathaniel Macon Martin, Corps of Engineers.
Joseph Gordon Russell, Air Corps.
Salathiel Fred Cummings, Jr., Infantry.
James Martin Worthington, Field Artillery.
James Michael Donohue, Coast Artillery Corps.
Robert Clarence McDonald, Jr., Field Artillery.
Joseph Waters Keating, Field Artillery.
Halford Robert Greenlee, Jr., Coast Artillery Corps.
Kenneth Paul Bergquist, Air Corps.
John Newton Wilson, Field Artillery.
Richard Marvin Bauer, Cavalry.
Lawrence Robert St. John, Field Artillery.
Gerald Frederick Brown, Field Artillery.
Willard George Root, Coast Artillery Corps.
Robert Van Roo, Field Artillery.
Arthur Allison Fickel, Air Corps.
Charles Maclean Peeke, Field Artillery.
Horace Wilson Hinkle, Infantry.
Raymond Boyd Firehock, Field Artillery.
Downs Eugene Ingram, Air Corps.
Milton Lawrence Rosen, Infantry.
Edgar Allan Clarke, Field Artillery.
James Mobley Kimbrough, Jr., Signal Corps.
John Ralph Wright, Jr., Infantry.
Harrison Barnwell Harden, Jr., Field Artillery.
Edward Moseley Harris, Infantry.
Carl Mosby Parks, Air Corps.
James Luke Frink, Jr., Field Artillery.
Elmer John Gibson, Field Artillery.
Julius Desmond Stanton, Infantry.
James Howard Walsh, Air Corps.
Walter Joseph Bryde, Field Artillery.
Thomas Washington Woodyard, Jr., Infantry.
Stuart Gilbert Fries, Infantry.
Harry Rich Hale, Coast Artillery Corps.
Charles Frederick Leonard, Jr., Infantry.
James Frank Skells, Infantry.
Eugene Nall, Cavalry.
Willis Fred Chapman, Air Corps.
Seneca Wilbur Foote, Coast Artillery Corps.
James Willoughby Totten, Field Artillery.
William Henderson Baynes, Coast Artillery Corps.
Eugene Henry Walter, Coast Artillery Corps.
Norman Arthur Loeb, Cavalry.
Albert Curtis Wells, Jr., Infantry.
Russell Melroy Miner, Coast Artillery Corps.
John Nevin Howell, Coast Artillery Corps.
John Mason Kemper, Infantry.
Maynard Denzil Pedersen, Cavalry.
Hamilton Austin Twitchell, Infantry.
Russell Eugeune Nicholls, Signal Corps.
Thomas Wildes, Air Corps.
Alfred Ashman, Coast Artillery Corps.
Aaron Warner Tyer, Air Corps.
James Dyce Alger, Cavalry.
Ralph Edward Haines, Jr., Cavalry.
Franklin Bell Reybold, Coast Artillery Corps.
Ewing Chase Johnson, Cavalry.
Robert Monroe Hardy, Coast Artillery Corps.
Francis Johnstone Murdoch, Jr., Cavalry.
Pennock Hoyt Wollaston, Coast Artillery Corps.
German Pierce Culver, Air Corps.
Carl Theodore Isham, Infantry.
Francis Mark McGoldrick, Coast Artillery Corps.
Wilhelm Cunliffe Fraudenthal, Air Corps.
John Alfrey, Coast Artillery Corps.
Joseph Rieber Russ, Infantry.
John Henry Dilley, Infantry.
Kermit Richard Schweidel, Coast Artillery Corps.
Eugene Charles Orth, Jr., Infantry.
Thomas Duncan Gillis, Cavalry.
Autrey Joseph Maroun, Infantry.
Milton Clay Taylor, Infantry.
George Frederick Marshall, Infantry.
Robert Morris, Coast Artillery Corps.
Joseph Cobb Stancook, Infantry.
John Brown Morgan, Coast Artillery Corps.
William Robert Murrin, Coast Artillery Corps.

Joseph Henry Wiechmann, Infantry.
John Foster Rhoades, Cavalry.
Richard Carlton Boys, Coast Artillery Corps.
George Robert Oglesby, Chemical Warfare Service.
John Calvin Stapleton, Infantry.
William Vincent Martz, Cavalry.
Robert Edward Frith, Jr., Coast Artillery Corps.
Norman Arvid Skinrood, Coast Artillery Corps.
Noel Maurice Cox, Infantry.
Joseph Crook Anderson, Infantry.
John Hart Caughey, Infantry.
Lawrence Edward Schlanser, Cavalry.
Edwin Major Smith, Infantry.
Henry Thomas Cherry, Jr., Cavalry.
LeRoy William Austin, Infantry.
Charles Jordan Daly, Air Corps.
Samuel Cummings Mitchell, Air Corps.
Edgar Joseph Treacy, Jr., Cavalry.
Paul Montgomery Jones, Cavalry.
Reuben Henry Tucker, 3d, Infantry.
William Genier Proctor, Infantry.
Lamont Saxton, Air Corps.
Caesar Frank Fiore, Cavalry.
Elmer Hardic Walker, Infantry.
Clair Beverly Mitchell, Infantry.
John Williamson, Infantry.
John Pearson Sherden, Jr., Infantry.
Jack Jones Richardson, Infantry.
Charles Phelps Walker, Cavalry.
Louis Duzzette Farnsworth, Jr., Infantry.
Charles Joseph Hoy, Cavalry.
Vernon Price Mock, Cavalry.
John Allen Beall, Jr., Infantry.
Lamar Fenn Woodward, Infantry.
Orin Houston Moore, Infantry.
Charles Wythe Gleaves Rich, Infantry.
Donald William Bernier, Infantry.
Harvey Bower, Infantry.
Allen Harvey Foreman, Infantry.
Wilson Dudley Coleman, Infantry.
Floyd Garfield Pratt, Infantry.
Thomas Cebern Musgrave, Jr., Air Corps.
Glenn Cole, Infantry.
Edward William Sawyer, Cavalry.
William Lee Herold, Infantry.
William Bradford Means, Infantry.
John Eidell Slaughter, Infantry.
Robert Gibson Sherrard, Jr., Infantry.
John Alfred Metcalfe, Infantry.
Andrew Jackson Boyle, Cavalry.
Stephen Disbrow Cocheu, Infantry.
John Neiger, Infantry.
Thomas Joseph Gent, Jr., Air Corps.
Albert Ambrose Matyas, Cavalry.
Benjamin Walker Hawes, Infantry.
Benjamin White Heckemeyer, Cavalry.
Nassieb George Bassitt, Infantry.
Ducat McEntee, Infantry.
William Robert Patterson, Infantry.
Oscar Rawles Bowyer, Infantry.
John James Davis, Cavalry.
Norman Basil Edwards, Infantry.
Pelham Davis Glassford, Jr., Air Corps.
Robert Eugene Tucker, Infantry.
Herbert Frank Batcheller, Infantry.
Robert Hollis Strauss, Field Artillery.
Maurice Monroe Simons, Air Corps.
Richard Cathcart Hopkins, Infantry.
Alfred Kirk duMoulin, Infantry.
Walter Edward Bare, Jr., Infantry.
Ralph Shaffer Harper, Cavalry.
Paul James Bryer, Infantry.
Raymond Clarence Adkisson, Infantry.
Emerson Oliver Liessman, Infantry.
Burnis Mayo Kelly, Infantry.
Lester Lewes Wheeler, Infantry.
Carmon Ambrose Rogers, Infantry.
Russell Batch Smith, Infantry.
Marcus Samuel Griffin, Infantry.
James George Balluff, Infantry.
Richard Hayden Agnew, Infantry.
Francis Regis Herald, Infantry.
John Leroy Thomas, Infantry.
George Brendan O'Connor, Infantry.
Russell Lynn Hawkins, Infantry.
Eric Per Ramee, Infantry.
Edwin Hood Ferris, Infantry.
Jack Roberts, Air Corps.
Robert Middleton Booth, Infantry.
George Madison Jones, Infantry.
David Albaugh DeArmond, Infantry.
Rives Owens Booth, Infantry.
Wilson Larzelere Burley, Jr., Infantry.
James Louis McGehee, Infantry.
Walter Albert Riemenschneider, Infantry.
William Pierce O'Neal, Jr., Infantry.
George Place Hill, Jr., Infantry.
Melville Brown Coburn, Infantry.
Alvin Louis Mente, Jr., Infantry.
Harry Franklin Sellers, Infantry.
David Bonesteel Stone, Infantry.
Roland Joseph Rutte, Infantry.
Glenn Curtis Thompson, Air Corps.
Samuel Barcus Knowles, Jr., Air Corps.
James Baird Buck, Infantry.
Ralph Osborn Lashley, Infantry.
Thomas Robert Clarkin, Infantry.
John Pope Blackshear, Infantry.
John Trueheart Mosby, Infantry.

TO BE FIRST LIEUTENANT, AIR CORPS, WITH RANK FROM JUNE 30, 1938

Ray Willard Clifton
Randolph Lowry Wood
Arnold Theodore Johnson
Marvin Frederick Stalder
Noel Francis Parrish
Dolf Edward Muehleisen
Carl Swyter
Richard Cole Weller
Edward Morris Gavin
Robert Edward Jarmon
Harry Crutcher, Jr.
Jack Mason Malone
Frank Neff Moyers
Edward Schwartz Allee
Harry Noon Renshaw
Joseph Bynum Stanley
Thomas Frederick Langben
Clarence Morice Sartain
James Hughes Price
Joseph Caruthers Moore
Lawrence Scott Fulwider
Lester Stanford Harris
Donald Newman Wackwitz
James Hume Crain Houston
Charles Henry Leitner, Jr.
Clair Lawrence Wood
Charles Bennett Harvin
George Henry Macintyre
Bob Arnold
Burton Wilmot Armstrong, Jr.
Mell Manley Stephenson, Jr.
Harold Lee Neely
Erickson Snowden Nichols
Jasper Newton Bell
Russell Lee Waldron
William Foster Day, Jr.
Harry Coursey
Daniel Edwin Hooks
Raymond Patten Todd

APPOINTMENT TO TEMPORARY RANK IN THE AIR CORPS

Roland Birnn to be major, Air Corps, from May 1, 1938.

APPOINTMENT IN THE NATIONAL GUARD

Robert Olando Whiteaker to be brigadier general.

REAPPOINTMENT IN THE OFFICERS' RESERVE CORPS

James Sumner Jones to be brigadier general, Adjutant General's Department Reserve.

POSTMASTERS

WEST VIRGINIA

Everett F. Walker, Wayne.

WISCONSIN

William A. Roblier, Coloma.
John T. Tovey, Fremont.
Max R. Alling, Green Lake.
James A. Stewart, Lac du Flambeau.
Walter J. Hyland, Madison.

Frank J. Horak, Oconto.
Raymond A. Whitehead, Phelps.
John V. Nickodem, Princeton.
Irwin J. Rieck, Weyauwega.
Edwin F. Smith, Wisconsin Veterans' Home.

SENATE

MONDAY, MAY 16, 1938

(Legislative day of Wednesday, April 20, 1938)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Friday, May 13, 1938, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. BARKLEY. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Dieterich	Johnson, Colo.	Pope
Andrews	Donahey	King	Radcliffe
Austin	Duffy	La Follette	Russell
Bailey	Ellender	Lewis	Schwartz
Bankhead	Frazier	Logan	Schwellenbach
Barkley	George	Lonergan	Sheppard
Berry	Gerry	Lundeen	Shipstead
Bilbo	Gibson	McAdoo	Smathers
Bone	Gillette	McCarran	Smith
Borah	Glass	McGill	Thomas, Okla.
Bridges	Green	McKellar	Thomas, Utah
Brown, Mich.	Hale	McNary	Townsend
Bulkley	Harrison	Maloney	Truman
Bulow	Hatch	Miller	Tydings
Burke	Hayden	Minton	Vandenberg
Byrd	Herring	Murray	Van Nuys
Byrnes	Hill	Neely	Walsh
Capper	Hitchcock	Norris	Wheeler
Caraway	Holt	O'Mahoney	White
Chavez	Hughes	Overton	
Copeland	Johnson, Calif.	Pittman	

Mr. LEWIS. I announce that the Senator from Arizona [Mr. ASHURST] and the Senator from Oregon [Mr. REAMES] are detained from the Senate because of illness.

The Senator from Oklahoma [Mr. LEE] is absent because of illness in his family.

The Senator from New Hampshire [Mr. BROWN], the Senator from Missouri [Mr. CLARK], the Senator from Texas [Mr. CONNALLY], the Senator from Pennsylvania [Mr. GUFFEY], the Senator from New Jersey [Mr. MILTON], the Senator from Florida [Mr. PEPPER], the Senator from North Carolina [Mr. REYNOLDS], and the Senator from New York [Mr. WAGNER] are detained on important public business.

Mr. AUSTIN. I announce that the Senator from Pennsylvania [Mr. DAVIS] and the Senator from North Dakota [Mr. NYE] are necessarily absent from the Senate.

The VICE PRESIDENT. Eighty-two Senators have answered to their names. A quorum is present.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Calloway, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

H. R. 9218. An act to establish the composition of the United States Navy, to authorize the construction of certain naval vessels, and for other purposes;

H. R. 9682. An act to provide revenue, equalize taxation, and for other purposes; and

H. R. 10216. An act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1939, and for other purposes.

AMENDMENT OF COMMUNICATIONS ACT OF 1934

The VICE PRESIDENT laid before the Senate a letter from the Acting Chairman of the Federal Communications Commission, transmitting a proposed amendment to the Communications Act of 1934, providing for the regulation of interstate and foreign radio communication and radio transmission of energy, which, with the accompanying paper, was referred to the Committee on Interstate Commerce.

DISPOSITION OF EXECUTIVE PAPERS

The VICE PRESIDENT laid before the Senate a letter from the Archivist of the United States, transmitting, pursuant to law, lists of papers on the files of the Department of the Navy, which are not needed in the conduct of business and have no permanent value or historical interest, and requesting action looking to their disposition, which, with the accompanying papers, was referred to a Joint Select Committee on the Disposition of Papers in the Executive Departments.

The VICE PRESIDENT appointed Mr. BARKLEY and Mr. GIBSON members of the committee on the part of the Senate.

LAWS OF MUNICIPAL COUNCIL OF ST. THOMAS AND ST. JOHN, VIRGIN ISLANDS

The VICE PRESIDENT laid before the Senate a letter from the Acting Secretary of the Interior, transmitting copies of laws passed by the Municipal Council of St. Thomas and St. John, and approved by the Governor of the Virgin Islands, which, with the accompanying papers, was referred to the Committee on Territories and Insular Affairs, as follows:

1. Amendment No. 4 to the budget for the municipality of St. Thomas and St. John for the fiscal year July 1, 1937, to June 30, 1938;
2. Amendment No. 5 to the budget for the municipality of St. Thomas and St. John for the fiscal year July 1, 1937, to June 30, 1938; and
3. Ordinance to amend the transshipment rates as provided in the ordinance concerning customhouse and ship dues in St. Thomas and St. John, as of August 16, 1914.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate papers in the nature of petitions from several citizens of the State of Washington, praying for the enactment of the President's proposed recovery program, which were referred to the Committee on Appropriations.

He also laid before the Senate a memorial of sundry citizens of Sapulpa, Okla., remonstrating against the President's proposed recovery program, which was referred to the Committee on Appropriations.

He also laid before the Senate a letter in the nature of a petition from the legislative committee of the Committee for Industrial Organization, New York City, N. Y., praying that the sum of $20,000 be appropriated for the purpose of investigating the alleged methods whereby the rights of labor have been nullified by American shipowners, which was referred to the Committee on Commerce.

He also laid before the Senate a letter in the nature of a petition from the legislative committee of the Committee for Industrial Organization, New York City, N. Y., praying for the enactment of the bill (S. 3390) to provide for guaranties of collective bargaining in contracts entered into, and in the grant or loan of funds by, the United States or any agency thereof, and for other purposes, which was referred to the Committee on Education and Labor.

He also laid before the Senate a telegram in the nature of a petition from the General Federation of Women's Clubs, in convention assembled in Kansas City, Mo., requesting the President of the United States to withdraw Executive Order No. 7869, giving the special Senate committee investigating lobbying activities the right to inspect and make public income-tax returns of any American citizen, which was referred to the Committee on Finance.

He also laid before the Senate resolutions adopted by the board of supervisors of the county of Alameda, Fla., and the county board of Price County, Wis., favoring the enactment of House bill 4199, the so-called General Welfare Act, which were referred to the Committee on Finance.

He also laid before the Senate a resolution adopted by the executive council of the Creek National Council, of Okmulgee,